

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X

RNC CONSOLIDATED CASES,

**DECLARATION OF
RAJU SUNDARAN**

(RJS)(JCF)

----- X

RAJU SUNDARAN, an attorney duly admitted to practice in the United States District Court for the Southern District of New York, declares under penalty of perjury and pursuant to 28 U.S.C. §1746 that the following is true and correct:

1. I am an Assistant Corporation Counsel in the office of MICHAEL A. CARDOZO, Corporation Counsel of the City of New York, attorney for defendants.

2. I am familiar with the facts and circumstances stated herein based upon personal knowledge, the books and records of the City of New York, and conversations with its agents and employees. I submit this declaration in support of defendants' reply memorandum of law in further support of their objections to the order of Magistrate Judge James C. Francis IV's, dated January 23, 2008, granting plaintiffs' motions to amend in part.

3. Annexed hereto as Exhibit G is the Order of Magistrate Judge James C. Francis IV, entered March 19, 2008, in all RNC actions concerning the RNC case management orders.

4. Annexed hereto as Exhibit H is the Order of Magistrate Judge James C. Francis IV, entered July 5, 2007, in all RNC actions concerning deposition scheduling.

5. Annexed hereto as Exhibit I is the Order of Magistrate Judge James C. Francis IV, entered October 26, 2007 in all RNC actions suspending deadlines for submission of dispositive motions in each case management order.

6. Annexed hereto as Exhibit J is Order of the Honorable Kenneth M. Karas, entered on July 21, 2005 in MacNamara, et al. v. City of New York, et al., 04 CV 9216 (RJS)(JCF).

7. Annexed hereto as Exhibit K is the Case Management Order, entered May 5, 2006, in Tikkun v. City of New York, et al., 05 CV 9901 (RJS)(JCF) specifically setting forth the deadline to amend the complaint.

8. Annexed hereto as Exhibit L is the Case Management Order, entered May 15, 2006, in Portera, et al. v. City of New York, et al., 05 CV 9985 (RJS)(JCF) specifically setting forth the deadline to amend the complaint.

9. Annexed hereto as Exhibit M is the Case Management Order, entered November 9, 2005, in Lee v. City of New York, et al., 05 CV 5528 (RJS)(JCF) and Cohen v. City of New York, et al., 05 CV 6780 (RJS)(JCF) specifically setting forth the deadline to amend the complaint.

10. Annexed hereto as Exhibit N is the Case Management Order, entered November 10, 2005, in Bell v. City of New York, et al., 05 CV 3705 (RJS)(JCF) and Starin v. City of New York, et al., 05 CV 5152 (RJS)(JCF) specifically setting forth the deadline to amend the complaint.

11. Annexed hereto as Exhibit O is the Order of Magistrate Judge James C. Francis IV, entered November 20, 2006, in Phillips, et al. v. City of New York, et al., 05 CV 7624 (RJS)(JCF); Coburn, et al. v. City of New York, et al., 05 CV 7623 (RJS)(JCF); Sloan, et al. v. City of New York, et al., 05 CV 7668 (RJS)(JCF); Galitzer v. City of New York, et al., 05 CV 7669 (RJS)(JCF); Bastidas, et al. v. City of New York, et al., 05 CV 7670 (RJS)(JCF); Carney, et al. v. City of New York, et al., 05 CV 7672 (RJS)(JCF); and Sikelianos v. City of New York, et al., 05 CV 7673 (RJS)(JCF) and the Order of Magistrate Judge James C. Francis IV, entered

March 2, 2007, in Drescher v. City of New York, et al., 05 CV 7541 (RJS)(JCF), concerning discovery deadlines in the case management orders.

12. Annexed hereto as Exhibit P are excerpts from the Deposition Testimony of Chief Terence Monahan in the RNC cases specifically identifying Commissioner David Cohen in connection with the RNC.

13. Annexed hereto as Exhibit Q are excerpts from the Deposition Testimony of Chief Joseph Esposito in the RNC cases specifically identifying Commissioner David Cohen in connection with the RNC.

14. Annexed hereto as Exhibit R is the Letter from James Mirro, Esq., dated February 1, 2008, to the Honorable Richard J. Sullivan, U.S.D.J., concerning the proposed briefing schedule for defendants' Rule 72 Appeal of Magistrate James C. Francis IV's January 23, 2008 Order granting plaintiffs' motion to amend in part.

15. Annexed hereto as Exhibit S is an Email from Clare Norins, Esq., dated February 3, 2008, to defendants' request for consent to the proposed Rule 72 briefing schedule.

16. I certify that the documents attached as Exhibits G through S to this declaration are true and correct copies of the original documents.

Dated: New York, New York
April 7, 2008



RAJU SUNDARAN (RS 8011)
Assistant Corporation Counsel

Appendix of Cases On Appeal Of January 23, 2008 Order

1. MacNamara, et al. v. City of New York, et al., 04 CV 9216 (RJS)(JCF).
2. Rechtschaffer v. City of New York, et al., 05 CV 9930 (RJS)(JCF).
3. Portera v. City of New York, et al., 05 CV 9985 (RJS)(JCF).
4. Bunim, et al. v. City of New York, et al., 05 CV 1562 (RJS)(JCF).
5. Kalra, et al. v. City of New York, et al., 05 CV 1563 (RJS)(JCF).
6. Ryan, et al. v. City of New York, et al., 05 CV 1564 (RJS)(JCF).
7. Garbini, et al. v. City of New York, et al., 05 CV 1565 (RJS)(JCF).
8. Greenwald, et al. v. City of New York, et al., 05 CV 1566 (RJS)(JCF).
9. Pickett, et al. v. City of New York, et al., 05 CV 1567 (RJS)(JCF).
10. Tremayne, et al. v. City of New York, et al., 05 CV 1568 (RJS)(JCF).
11. Biddle, et al. v. City of New York, et al., 05 CV 1570 (RJS)(JCF).
12. Moran, et al. v. City of New York, et al., 05 CV 1571 (RJS)(JCF).
13. Botbol, et al. v. City of New York, et al., 05 CV 1572 (RJS)(JCF).
14. Crotty, et al. v. City of New York, et al., 05 CV 7577 (RJS)(JCF).
15. Stark, et al. v. City of New York, et al., 05 CV 7579 (RJS)(JCF).
16. Lalier, et al. v. City of New York, et al., 05 CV 7580 (RJS)(JCF).
17. Grosso v. City of New York, et al., 05 CV 5080 (RJS)(JCF).
18. Dudek v. City of New York, et al., 04 CV 10178 (RJS)(JCF).
19. Bell v. City of New York, et al., 05 CV 3705 (RJS)(JCF).
20. Starin v. City of New York, et al., 05 CV 5152 (RJS)(JCF).
21. Lee v. City of New York, et al., 05 CV 5528 (RJS)(JCF).
22. Cohen v. City of New York, et al., 05 CV 6780 (RJS)(JCF).

23. Phillips, et al. v. City of New York, et al., 05 CV 7624 (RJS)(JCF).
24. Coburn, et al. v. City of New York, et al., 05 CV 7623 (RJS)(JCF).
25. Drescher v. City of New York, et al., 05 CV 7541 (RJS)(JCF).
26. Bastidas, et al. v. City of New York, et al., 05 CV 7670 (RJS)(JCF).
27. Xu, et al. v. City of New York, et al., 05 CV 7672 (RJS)(JCF).
28. Sloan, et al. v. City of New York, et al., 05 CV 7668 (RJS)(JCF).
29. Galitzer v. City of New York, et al., 05 CV 7669 (RJS)(JCF).
30. Sikelianos v. City of New York, et al., 05 CV 7673 (RJS)(JCF).
31. Abdell, et al. v. City of New York, et al., 05 CV 8453 (RJS)(JCF).
32. Adams, et al. v. City of New York, et al., 05 CV 9484 (RJS)(JCF).
33. Araneda, et al. v. City of New York, et al., 05 CV 9738 (RJS)(JCF).
34. Eastwood, et al. v. City of New York, et al., 05 CV 9483 (RJS)(JCF).
35. Tikkun v. City of New York, et al., 05 CV 9901 (RJS)(JCF).

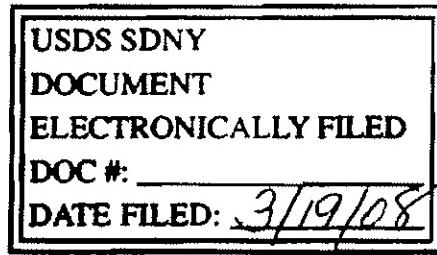
EXHIBIT G

**Case 1:04-cv-07922-RJS-JCF Document 371 Filed 03/19/2008 Page 1 of 2
THIS ORDER IS TO BE DOCKETED & FILED IN ALL RNC CASES**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK (ECF)

MICHAEL SCHILLER, et al., : 04 Civ. 7922 (RJS) (JCF)
Plaintiffs, : *LEAD CASE*

- against - :
THE CITY OF NEW YORK, et al., :
Defendants. :
HACER DINLER, et al., : 04 Civ. 7921 (RJS) (JCF)
Plaintiffs, :
- against - :
THE CITY OF NEW YORK, et al., :
Defendants. :
JAMES C. FRANCIS IV
UNITED STATES MAGISTRATE JUDGE



Defendants having requested by letter dated February 13, 2008
an order requiring plaintiffs in all RNC cases to identify those
non-party witnesses they expect to call at trial, it is hereby
ORDERED as follows:

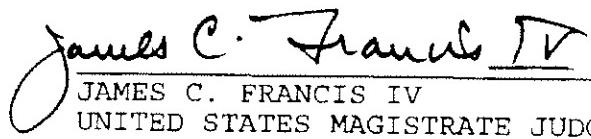
1. By March 31, 2008, counsel for all parties shall identify all non-party fact witnesses that they reasonably expect to testify at trial on behalf of their respective clients.

2. Absent exceptional circumstances, depositions of fact witnesses are concluded in all RNC cases, consistent with the case management orders. While some of the case management orders were extended de facto by the master deposition scheduling order, there was no basis for assuming that they had been abandoned altogether.

Case 1:04-cv-07922-RJS-JCF Document 371 Filed 03/19/2008 Page 2 of 2
This Order does not preclude depositions necessitated by Judge

Sullivan's determination of issues now pending before him.

SO ORDERED.


JAMES C. FRANCIS IV
UNITED STATES MAGISTRATE JUDGE

Dated: New York, New York
March 19, 2008

Copies mailed this date:

All Plaintiff's Counsel

Gerald S. Smith, Esq.
Senior Corporation Counsel
City of New York Law Department
100 Church Street
New York, NY 10007

EXHIBIT H

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

(ECF)

MICHAEL SCHILLER, FRANCESCA
FIORENTINI, ROBERT CURLEY, and
NEAL CURLEY,

04 Civ. 7922 (KMK) (JCF)

LEAD CASE

Plaintiffs,

- against -

The CITY OF NEW YORK; RAYMOND
KELLY, Commissioner of the New
York City Police Department;
TERENCE MONAHAN, Assistant Chief
of the Bronx Bureau of the New
York City Police Department,

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 7/5/07

**DOCKET IN ALL
RNC CASES**

Defendants.

HACER DINLER, ANN MAURER, ASHLEY
WATERS,

04 Civ. 7921 (KMK) (JCF)

O R D E R

- against -

CITY OF NEW YORK, COMMISSIONER
RAYMOND KELLY,

Defendants.

JAMES C. FRANCIS IV
UNITED STATES MAGISTRATE JUDGE

Counsel having submitted lists of agreed dates for depositions
as well as lists of deponents for whom no date has been agreed
upon, it is hereby ORDERED as follows:

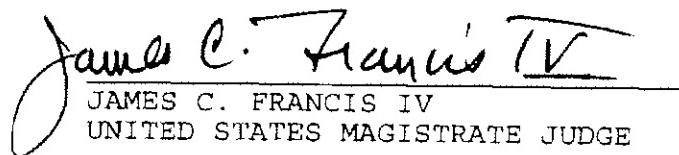
1. Depositions shall be conducted in accordance with the
schedule set forth in the Appendix to this order. Counsel may
deviate from that schedule only upon written stipulation or further
order of the Court.

2. Where counsel appear to have agreed on more than one date
for any witness, that witness has been listed for multiple dates.

3. Witnesses previously deposed have not been included in the schedule. If and when a dispute arises concerning either the propriety of recalling such a witness or the date of such a deposition, I will adjudicate those issues.

4. All counsel shall receive electronic notice of this order via ECF.

SO ORDERED.


JAMES C. FRANCIS IV
UNITED STATES MAGISTRATE JUDGE

Dated: New York, New York
July 5, 2007

Copies mailed this date:

Christopher T. Dunn, Esq.
New York Civil Liberties Union
125 Broad Street, 17th Floor
New York, New York 10004

Peter G. Farrell, Esq.
Special Assistant Corporation Counsel
City of New York Law Department
100 Church Street
New York, New York 10007

Joseph Carranza
P.O. Box 575060
Whitestone, New York 11357

APPENDIX

July 2-6, 2007

<u>Date</u>	<u>Plaintiffs Witnesses</u>	<u>Defendants Witnesses</u>
7/2	Crotty	
7/3	Geocos Hardesty	PO Denise Rose Hinksman Sgt. Sean O'Connor
7/5		DC Vincent Giordano
7/6	Flynn	

July 9-13, 2007

7/9	Ryan	Captain William Crossan PO Linder
7/10	Lucrezia Neary Roebling Tepsic	PO Keri Mitchell Sgt. Evan Minoque Lt. David Sleve Insp. James McCarthy
7/11	Henriksan Heinegg Migliore Burns	
7/12	Rochfort Charity James	PO Donald Nelzi Sgt. Michael Sold PO Jeremiah Malone
7/13	Rosemoore Vaughan Poe Hannah Janeway	Captain Ronald Mercandetti

July 16-20, 2007

7/16	Ponce Lorusso Stone	Sgt. Allison Mullen Lt. Byrne PO Michael Eils PO Michael Caligere Lt. Brian Jackson Lt. Chris Delsante
7/17	Vaull Milne Marx	Sgt. Eddie Murphy Det. Michael Cummings PO Phillip Facenda PO Magdalen Kobiolka PO Yahaira LaChapell

7/18	Lalier Marty Rosenberg Paris	Lt. James O'Sullivan Sgt. Jorge Encarnacion PO Cuong Nguyen
7/19	Paine C. Lee Ortiz Palmer	UC 6216 PO Johanna Greenberg PO Timothy Cai PO Ed Harrigan
7/20	Parrot Melchor Church Howe	Lt. John Berquist PO Valerio Rodriguez PO Joseph Cappleman

July 23-27, 2007

7/23	Biddle Benjamin Goldenberg Jashnani	Cpt. Chico Cpt. Alexander Laera EMT Emery Taylor
7/24	Biddle Ingber Wipfli Henry	PO Vincent Fortunato PO Victor Perez Sgt. Allison Keating PO Tyree Fischer PO Sal Sedita
7/25	Wood Hasa Feinstein Miller	Chief William Morris Sgt. Donnelly Sgt. Darligan
7/26	Bekavac Hardesty Dickerson St. Laurent	Connie Fisher Lt. John Dolan Sgt. Evelyn Rivera Sgt. Conor McCourt PO Brett Bara PO Heriberto Mercado

7/27	Adams Stark Cheung Petrick	John Doe White Shirt Supervisor
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July 30-Aug.3, 2007

7/30	Stipe Muellan Pogge Goldberg	Lt. Daniel Albano PO Courtney Hamlin Sergio Coppola
7/31	Zalk Crook Mukerjee Robinson	DI Michael Yanosik Sgt. William Murphy PO Remy Randall PO Daniel Ryan PO Christopher Chan PO Patrick Speechley

8/1	Giuliani Roberts Swink Howard	Steven Hammerman PO Jose Chaparro
8/2	Mitrano Albert Raymond	Insp. Thomas Pelligrino Captain Eugene Montchal PO Daniel Jasinski Lt. John Pribetich
8/3	Fowler Bomstein Nechay Shiller	PO Adam Piergostino PO Thomas Carney PO Patrice Barolette
		Aug. 6-10, 2007
8/6	Sladek Averbakh Jones O'Reilly	PO Michael Balicki Sgt. Bolte PO Jagdeep Singh
8/7	Griffith Wood Hall Turse	PO John Cousins
8/8	Taft Alexander Tejada Ellisen	PO Melissa Roman Insp. Ward
8/9	Lewis Sidle Ogden-Nuss Remmes	PO Gregory Karnbach Ranking DCPI employees at 16th St. Ranking NYPD Legal Bureau at 16th St.
8/10	Bensen Sidle Lefemine	Sgt. Michael Ingram PO Javier Cordero Chief Michael Scagnelli Sgt. Arthur Smarsch PO Kathleen Curnyn
		Aug. 13-17, 2007
8/13	Nelia Calabrese Cook Bhalla	PO Raymond Ng Ranking DCPI employee Fulton St. PO Matt Wohl PO Walter Padilla PO Martin Vasquez
8/14	Flaton Luci Bunn Rigby	Lt. James Griffin Lt. Joseph Sitro PO Michael Carrieri PO Joseph Andrade

8/15	Gingold Lang Richins	PO Kegham Jarjokian Cmmr. Garry McCarthy Cmmr. Robert Messner "Blue" PO Christopher Triquet
8/16	Chandra Rivera Spector Rettstadt	Capt. Robert Bonifati Sgt. Crichigno Sgt. Daniel Sarrubbo
8/17	Botbol Blackburn Kyne	Captain Dowling PO Steven Papola

Aug. 20-24, 2007

8/20	Roth Lassel Behling Duncan	Captain Dermot Shea PO Brian McSweeney PO James Wolff PO John Rooney
8/21	Rechtschaffer Bhagat Rubin Dietzen Cohen	PO Neil Rodriguez Sean Gumbs Patrick Quigley
8/22	Rorvig Langley Emmer Knapp	PO Victoria Schneider
8/23	O'Dierno Todd Glick Grisham	PO Noel Rodriguez Insp. John Hughes
8/24	Pielri Winkler T. Gaster	Sgt. Gregory Pekera PO Jason Wolf PO Tanisha Diaz Martin Paolino Sgt. Leslie Chan

Aug. 27-31, 2007

8/27	Aikman Davidson Trinkl Eastwood	PO Michael Filoseta Lt. Chris Pasquarelli
8/28	Pelcynski Muensch Rosenthal Trudell C. Dwyer	Sgt. Jim Giambrone Sgt. Hugh Byrne

8/29	Fremont Borok Renwick Hunt Martin	Sgt. Anthony Rivers Sgt. Janus Fitzpatrick PO David Lawrence PO Gregory Markowski
8/30	Portera Buhle Walker Wu	Lt. Antonio Venice
8/31	Greenwald Vreeland Conley	PO Anthony Mason

Sept. 3-7, 2007

9/4	Galitzer Brar DeBruhl Gaster	Sgt. Holmes
9/5	Viertel Janeway Tremayne Stephens Kalra	Lt. Christopher Czark Sgt. John White Sgt. Anthony Dellavalle
9/6	Katz Kappel Gamboa Sanchez Albertson	PO Francesco Belluscio PO Robert Hamer
9/7	Biddle Rubinfeld Ferrand-Sapsis Wilson Walden Carranza	Comm. Thomas Doepfner

Sept. 10-14, 2007

9/10	Argyros Quick Reyna Janney Wright	Sgt. Geraldine Falcon Sgt. Frederick Grover PO John Martinez PO Jacqueline DeCarlo
9/11	Juarez Mathews Williamson Esquiviel	Ruby Marin-Jordan Det. Ahearn Sgt. DeConne

9/12	Kojis Holt Gross Ekberg Albertson	Lt. John Connolly
9/13	Freas Davies A. Sensiba G. Sensiba	Insp. Kerry Sweet
9/14	Bastidas Shekarchi Mulligan Segal Jordan	PO Kevin Scott Sgt. Anthony Kempinski Sgt. Marc Manara
		Sept. 17-21, 2007
9/17	Soloff Becker Capps Loveccchio	Insp. John O'Connell PO Joseph Fong PO Brian Martin PO John Murtagh
9/18	Sakayama Edwards Epstein Drummond Walsh	SA Stephen Hughes
9/19	Reed Rahn Vik Hotchkiss O'Reilly-Rowe	Captain Thomas Arnet PO Bart Pipcinski Lt. Daniel Hayes Sgt. Steven Dean Mark Vazques
9/20	Majmudar Schulmeister Consigny Catchpole Drescher	PO Raul Santos PO Michael Christian
9/21	Weaver Belbin Parry Spritzer	Captain Andrew Savino PO Santo Ippolito PO William Haut

Sept. 24-28, 2007

9/24	Barron Cox Pardew D. Dwyer Petrolo	Lt. Daniel MacFarland PO Neil Stumpf PO Christopher Krutys
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9/25	Laura K. Roberts Bunim Zambeck Arenda	PO Michael Safoshnick PO Josh Lewis PO Linda Araque PO Mark Steiner
9/26	Caspar Dyer Schoemann Wilson Miller	Crim. Justice Coordinator Reps. Sgt. O'Toole Sgt. Marerro
9/27	Adamson Haglund Podber Ditman Cohnen	Sgt. Gantt White shirted supervisor
9/28	Jabour Shaw Weikart Noonan Lang	Yahoshua Blisko
		Oct. 1-5, 2007
10/1	Xu Zariela Handleman Assam Kressly	PO Debra Mitchell PO James Grimes PO Alberto Angilletta PO Rene Sola
10/2	Kaplan Vendetti Pan Rueckner	Det. Joseph Sobolewski PO Jason Stewart PO Sontz PO Timothy Spies PO Ebony Huntley
10/3	Heinhold Kunz Ellmann Martini Miller	PO Mona Phillips Capt. Kavanaugh Carmine Fiore
10/4	Flanigan Eifert Toerper James Cavanagh	Lt. Connolly Sgt. Chang Det. Nicholas Stanich PO Brendan Meehan
10/5	Miller Hurley Whitney Norwid Turner	PO Jason Martinoff Sgt. Thomas Durkin PO Gary Florencio

Oct. 8-12, 2007

10/8	Potok Gibbons	Sgt. Ronald Meyers Sgt. Gerald Fitzpatrick PO Poletto PO Glenn Hudecek
10/9	Lesser Dress Taylor Hottle Lahn	PO Elvis Shero Carlos Pucheco Isaura Peralta
10/10	Reilly Levin Lynn Hernandez Tikkun	Amir Rasheed PO Donna Farrell PO Shawn Allen
10/11	Porto Rosen Weltha Rose Kanouse	Commander Charles DiRienzo Lt. Charles Harman PO Gregory Michels PO Louron Hall
10/12	Phillips Maddox Grimshaw M. Lee Ashbeck	Shakeel Ansari PO James Chung PO Michael Bonacci PO Pavel Gomez

Oct. 15-19, 2007

10/15	Harak Coburn Heifetz Bacon Davis	PO Shield 4483 Sgt. Young PO Steven Caraballo PO Hui Chi
10/16	Ross Cody Strasser Barber Larson	PO Manzi PO Adam Panasuk PO Michael Ali
10/17	Conklin Palmer McGee Gross Kantor	PO Matthew Sherman PO Maria Veliz PO Victor Lebron PO James Connolly
10/18	Goldstein Peterson Carney Kavanagh	Sgt. Gutierrez Sgt. Reynolds Sgt. Rivers Sgt. Rivera

10/19	Esposito Tuzzolo McEldowney Langergaard Kocek	PO Gabriel Healy Gregory Fontaine
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Oct. 22-26, 2007

10/22	Thomas-Melly Aronowsky Breznau Nawalkowsky Laken	PO Tyrone Riggan PO Franklin Diaz PO Colleen Killen
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10/23	Wilcox Mahoney Murdock Crane Hill	Policy Witness (Tikkun)
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10/24	Weiss Partnow Seshimo Lanctot Hedemann	PO Felicia Alfred PO Sgt. Calderone
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10/25	Swanson Sassone Pickett Duvall Lahond	PO Kimberly Daly PO Michael Gonzalez PO Terence McMenamy
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10/26	Stefanelli Gindi Anastasio Barrows Boisvert	PO Giuseppe Ganci Sgt. Shield 2713 PO Lucille Fredericks
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Oct. 29-Nov. 2, 2007

10/29	Sikelianos Kaye Sperry Wetherby Siegel	PO John Woods PO Michael Deckert
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10/30	Meyer Peizek Gordon Barfield	PO Moises Martinez PO Thomas McDonnell
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10/31	Sloan Fix Adams Logan Parrott	PO Joseph Buccignano PO Virgilio Benscosme
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11/1	Lovejoy Philips Lebet Nicinski McGee	Lt. James Johnson Captain McCormack
11/2	Hobbs Vilanova-Marques Duhame San Marchi Dorals	Official re DOCS Planning & Arrest Processing David Szaboles Stephen Valentine

Nov. 5-9, 2007

11/5	Flynn Martin White Shotwell Colville	PO Robert Martin PO Gerard Neumann
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11/6	Hankin	Sgt. Acosta Shield 14447 Lt. Thomas Lowe
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11/7	Schutzenhofer Moran Freitag Krassan Benn	Roland Betts PO Gregory Bell
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11/8	Adame Elfrank-Dana Reyes Scofield Kern	Insp. James Capaldo Lt. Raymond Spinella PO Michael Ho PO Drew Repetti
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11/9	Landwehr Jenkins Pincus D'Ornellas Murray	PO Khamwate Brijbukhan PO Dominick Bizarro
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Nov. 12-16, 2007

11/12	Walsh Perry Hardie Joseph	PO John Epstein N. Hoy
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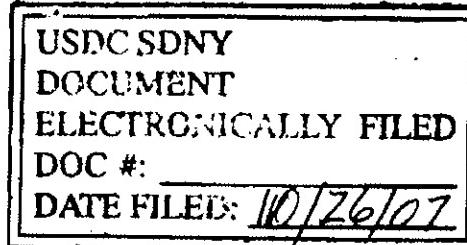
11/13	Corley Ross Bernard Beeny	Scooter Supervisor
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11/14	Doxtader Kerns Burns DeMott	PO James Roscher Det. Christopher Ambrose PO Thomas Crean PO David Cicatiello
11/15	Hill Prokop Kinane	Kenneth Singleton PO Matthew Loftus
11/16	Charney Agnase Gunn Ivors	Cpt. John Scolaro

EXHIBIT I

Case 1:04-cv-07922-RJS-JCF Document 297 Filed 10/26/2007 Page 1 of 2
 UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK

MICHAEL SCHILLER, et al.,	:	04 Civ. 7922 (RJS) (JCF)
Plaintiffs,	:	*LEAD CASE*
- against -	:	DOCKET IN ALL RELATED CASES
THE CITY OF NEW YORK, et al.,	:	
Defendants.	:	
HACER DINLER, et al.,	:	04 Civ. 7921 (RJS) (JCF)
Plaintiffs,	:	
- against -	:	
THE CITY OF NEW YORK, et al.,	:	
Defendants.	:	
JAMES C. FRANCIS IV UNITED STATES MAGISTRATE JUDGE	:	

O R D E R

In view of the outstanding discovery issues in many of the cases consolidated for discovery, the deadlines currently established by each case management order for submission of dispositive motions are suspended pending further order of the Court.

SO ORDERED.

James C. Francis IV
JAMES C. FRANCIS IV
 UNITED STATES MAGISTRATE JUDGE

Dated: New York, New York
 October 26, 2007

EXHIBIT J

JUL 1 2005

MOORE & GOODMAN, LLP
ATTORNEYS AT LAW
740 BROADWAY AT ASTOR PLACE
NEW YORK, N.Y. 10003-8518

JONATHAN C. MOORE*
WILLIAM H. GOODMAN**

DAVID MILTON

*ALSO ADMITTED IN CALIFORNIA AND ILLINOIS
**ALSO ADMITTED IN MICHIGAN

TELEPHONE (212) 383-9587
FAX (212) 674-4614

JANICE M. BADALUTZ
PARALEGAL/INVESTIGATOR

OF COUNSEL
MICHAEL HADDAD
JULIA SHERWIN

MEMO ENDORSED

July 5, 2005

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 7/12/05

VIA FAX: 212-805-7968
The Honorable Kenneth M. Karas
United States District Court
500 Pearl Street
New York, NY 10007

Re: MacNamara et al. v. City of New York, et al., 04 CV 9216 (KMK)

Your Honor,

Our law office has unexpectedly lost our lease and as a consequence, we are requesting a three-month delay in the previously negotiated and ordered Case Management Order (CMO) in the above-captioned case. I have contacted counsel for the defendants and we have agreed upon the following modifications in the CMO and are jointly requesting that the Court enter an Order, in accordance therewith.

We have agreed that, with the Court's permission, all dates set forth in the CMO (beginning with Paragraph 8) shall be postponed three months, with the following conditions and exceptions:

1. Plaintiffs' responses to the City's interrogatories and document requests, served on May 20, 2005, along with all executed releases, shall be served upon the City on a rolling basis, but no later than July 18, 2005;
2. The depositions of the named plaintiffs, noticed by the defendants on June 15, 2005 are adjourned until the pertinent records are produced and the parties set mutually convenient dates for the depositions, with the understanding that the last of these depositions shall be completed before plaintiffs serve their motion for class certification;
3. All of the provisions of the current CMO remain in place except those deadlines

MOORE & GOODMAN, LLP

MEMO ENDORSED

4. affected by this agreement and Order;
5. Plaintiffs shall file their Amended Complaint by July 15, 2005, and defendants' response shall be due by August 22, 2005;
5. In the event that any witnesses whom the plaintiffs seek to depose in this case, aside from arresting officers, are first noticed in another RNC case, plaintiffs will participate in that deposition rather than depose the witness separately.

The parties have also agreed that two of the plaintiffs, Julia Cohen and Chris Kornicke, will be dismissed without prejudice, as they have obtained new counsel. We will prepare a stipulation and Order. We thank the Court for its patience and cooperation.

Sincerely,



William Goodman
Moore & Goodman, LLP

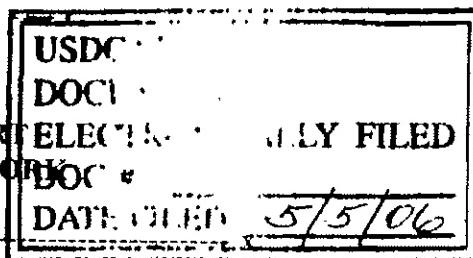
cc: James Mirro
Fax: 212-788-9776

With the exceptions noted in this letter, and for the reasons stated therein, the dates set forth in the Case Management Order (Doc# 21) below paragraph 6 are postponed for two months.

2

SO ORDERED
KENNETH M. KARAS U.S.D.J.
7/11/05

EXHIBIT K



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KAITLYN TIKKUN, et al.,

CASE MANAGEMENT
ORDER

-versus-

05 CV 9901 (KMK)(JCF)

THE CITY OF NEW YORK, et al.

Plaintiff,

Defendants.

X

Pursuant to Rule 16 of the Federal Rules of Civil Procedure, the Court hereby enters its Case Management Order governing the foregoing case. This case arises from the arrest and detention of plaintiff by the New York City Police Department around the time of the Republican National Convention in New York City in late August and early September 2004 ("RNC Cases"). It involves numerous Defendants including the City of New York, its Mayor and Commissioner of Police.

In this case, the parties expect that issue will be joined shortly and that all of the material allegations of the complaint will be denied. Defendants have stipulated to the following terms at this time to permit Plaintiffs in these actions the opportunity to participate in the consolidated discovery currently underway in the related RNC Cases. In the interests of the convenience and economy of the parties, and the efficient management and oversight of the Court's docket, the Court hereby enters this order, the provisions of which are designed to be compatible with those in the RNC Case of *Macnamara, et al. v. The City of New York, et al.*, No. 04-CV-9216 (KMK) (JCF) and others.

In addition to this order, the parties are bound by (and the Court is entering in this case separately) Discovery Order #1 (which provides for the consolidated depositions of certain

defense witnesses) and Protective Order #1 (which provides for the confidential treatment of certain discovery materials).

The Court is advised that the parties do not consent to trial of this case by magistrate judge. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York. All motions and applications shall be governed by the Court's Individual Practices, including pre-motion conference requirements. This order may be modified only by agreement of the parties, subject to the Court's approval, or upon a showing of good cause.

DATE DUE

PLEADINGS & DISCOVERY

The parties have agreed to dispense with initial disclosures and have commenced discovery.

5/1/06

Plaintiffs shall have served any amended complaint adding claims or joining parties. No further amendment to the complaint shall be permitted without leave of court.

5/31/06

The parties currently expect that the consolidated depositions of defense witnesses, as contemplated by Discovery Order #1, shall proceed at least through this date.

6/1/06 11/1/06

All written discovery, including document requests and interrogatories, shall have been served, except as provided below.

7/1/06 2/1/07

All depositions of fact witnesses shall have been noticed. With respect to both fact and expert witnesses, unless the noticing party assents, depositions of particular witnesses are not to be held until the party producing the witness has responded to any outstanding interrogatories and requests for documents pertaining to that witness. Once a party has completed the deposition of a witness, that party shall not later seek to re-depose that witness absent good cause.

*2
A/1/07*

All fact discovery shall have been completed.

*3
A/1/07*

Plaintiffs shall identify their expert witnesses for trial and provide the disclosures contemplated by the federal rules.

41/07

Depositions of plaintiffs' trial experts shall be completed.

51/07

Defendants shall identify their expert witnesses for trial and provide the disclosures contemplated by the federal rules.

61/07

Depositions of defendants' trial experts shall be completed.

71/07

All contention interrogatories and requests to admit shall be served.

81/07

All responses due to contention interrogatories and requests to admit.

91/07

All counsel must meet for at least one hour to discuss settlement no later than this date.

Counsel for the parties have discussed holding a settlement conference before a Magistrate Judge. The parties request a settlement conference before a Magistrate Judge.

Counsel for the parties have discussed the use of the Court's Mediation Program. The parties do not request that the case be referred to the Court's Mediation Program.

Counsel for the parties have discussed the use of a privately retained mediator. The parties do not intend to use a privately retained mediator.

DISPOSITIVE MOTIONS

91/07

All dispositive motions shall have been served. Pursuant to the undersigned's Individual Practices, the parties shall request a pre-motion conference in writing at least four weeks prior to this deadline.

10/1/071/1/08

Oppositions due to all dispositive motions.

11/1/072/1/08

Replies, if any, due to all dispositive motions.

Within 30 days of the Court's ruling on dispositive motions

Should any part of the case remain after the Court's ruling on dispositive motions, a Pre-Trial Conference with the Court shall be held. Prior to that conference, the parties shall consult and submit to the Court a Joint Pretrial Order prepared in accordance with the Undersigned's Individual Practices and Rule 26(a)(3) of the Federal Rules of Civil Procedure. If this action is to be tried before a jury, proposed voir dire, jury instructions and a verdict form shall be filed with the Joint Pretrial Order. Counsel are required to meet and confer on the jury instructions and verdict form in an effort to make an agreed upon submission.

The parties have conferred and their present best estimate of the length of trial of an individual plaintiff's case is approximately 3 weeks.

SO ORDERED

DATED: New York, New York
May 4, 2006

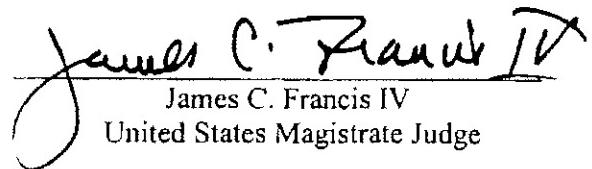

James C. Francis IV
United States Magistrate Judge

EXHIBIT L

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 5/15/06

BRIAN PORTERA, et al.,

CONSOLIDATED CASE
MANAGEMENT ORDER

Plaintiff,

-versus-

THE CITY OF NEW YORK, et al.

Defendants.

MICHAEL REUBEN, et al.,

x

Plaintiff,

-versus-

05 CV 9985 (KMK)(JCF)

THE CITY OF NEW YORK, et al.

Defendants.

x

Pursuant to Rule 16 of the Federal Rules of Civil Procedure, the Court hereby enters its Case Management Order governing the foregoing cases. These cases arise from arrests and detentions by the New York City Police Department around the time of the Republican National Convention in New York City in late August and early September 2004 ("RNC Cases"). They involve numerous Defendants including the City of New York, its Mayor and Commissioner of Police.

In these cases, issue has been joined and all of the material allegations of the complaints have been denied. Defendants have stipulated to the following terms at this time to permit Plaintiffs in these actions the opportunity to participate in the consolidated discovery currently underway in the related RNC Cases. In the interests of the convenience and economy of the parties, and the efficient management and oversight of the Court's docket, the Court hereby enters this order, the provisions of which are designed to be compatible with those in the

Docket
IN BOTH
CASES

RNC Case captioned *Macnamara, et al. v. The City of New York, et al.*, No. 04-CV-9216 (KMK) (JCF) and others. In addition to this order, the parties are bound by (and the Court is entering in these cases separately) Discovery Order #1 (which provides for the consolidated depositions of certain defense witnesses) and Protective Order #1 (which provides for the confidential treatment of certain discovery materials).

The Court is advised that the parties do not consent to trial by magistrate judge. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York. All motions and applications shall be governed by the Court's Individual Practices, including pre-motion conference requirements. This order may be modified only by agreement of the parties, subject to the Court's approval, or upon a showing of good cause.

<u>DATE DUE</u>	<u>PLEADINGS & DISCOVERY</u>
	The parties have agreed to dispense with initial disclosures and have commenced discovery.
5/31/06	The parties currently expect that the consolidated depositions of defense witnesses, as contemplated by Discovery Order #1, shall proceed at least through this date.
6/1/06	Plaintiffs shall have served any amended complaint adding claims or joining parties. No further amendment to the complaint shall be permitted without leave of court.
8/1/06	All written discovery, including document requests and interrogatories, shall have been served, except as provided below.
11/1/06	All depositions of fact witnesses shall have been noticed. With respect to both fact and expert witnesses, unless the noticing party assents, depositions of particular witnesses are not to be held until the party producing the witness has responded to any outstanding interrogatories and requests for documents pertaining to that witness. Once a party has completed the deposition of a witness, that party shall not later seek to re-depose that witness absent good cause.

- 2/1/07 All fact discovery shall have been completed.
- 3/1/07 Plaintiffs shall identify their expert witnesses for trial and provide the disclosures contemplated by the federal rules.
- 4/1/07 Depositions of plaintiffs' trial experts shall be completed.
- 5/1/07 Defendants shall identify their expert witnesses for trial and provide the disclosures contemplated by the federal rules.
- 6/1/07 Depositions of defendants' trial experts shall be completed.
- 7/1/07 All contention interrogatories and requests to admit shall be served.
- 8/1/07 All responses due to contention interrogatories and requests to admit.
- 8/15/07 All counsel must meet for at least one hour to discuss settlement no later than this date.
- Counsel for the parties have discussed holding a settlement conference before a Magistrate Judge. The parties request a settlement conference before a Magistrate Judge.
- Counsel for the parties have discussed the use of the Court's Mediation Program. The parties do not request that the case be referred to the Court's Mediation Program.
- Counsel for the parties have discussed the use of a privately retained mediator. The parties do not intend to use a privately retained mediator.

DISPOSITIVE MOTIONS

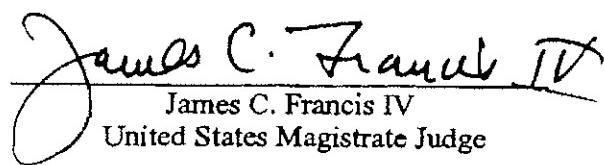
- 9/1/07 All dispositive motions shall have been served. Pursuant to the undersigned's Individual Practices, the parties shall request a pre-motion conference in writing at least four weeks prior to this deadline.
- 10/1/07 Oppositions due to all dispositive motions.
- 11/1/07 Replies, if any, due to all dispositive motions.
- Within 30 days of the Court's ruling on dispositive motions Should any part of the case remain after the Court's ruling on dispositive motions, a Pre-Trial Conference with the Court shall be held. Prior to that conference, the parties shall consult and submit to the Court a Joint Pretrial Order prepared in accordance with the Undersigned's Individual Practices and Rule 26(a)(3) of the Federal Rules of Civil Procedure. If

this action is to be tried before a jury, proposed voir dire, jury instructions and a verdict form shall be filed with the Joint Pretrial Order. Counsel are required to meet and confer on the jury instructions and verdict form in an effort to make an agreed upon submission.

The parties have conferred and their present best estimate of the length of trial of an individual plaintiff's case is approximately 2 weeks.

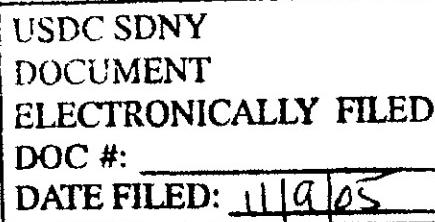
SO ORDERED

DATED: New York, New York
May 15, 2006



James C. Francis IV
United States Magistrate Judge

EXHIBIT M



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ADAM WROBLEWSKI,

Plaintiff,

-versus-

CONSOLIDATED CASE
MANAGEMENT ORDER

05 CV 5150 (KMK)

THE CITY OF NEW YORK, et al.
Defendants.

JEANETTE LAHN-SHEEN LEE, et al.
Plaintiffs,

-versus-

05 CV 5528 (KMK)

THE CITY OF NEW YORK, et al.
Defendants.

JULIA R. COHEN,

Plaintiff,

-versus-

05 CV 6780 (KMK)

THE CITY OF NEW YORK, et al.
Defendants.

CHRIS J. KORNICKE,

Plaintiff,

-versus-

05 CV 7025 (KMK)

THE CITY OF NEW YORK, et al.
Defendants.

Pursuant to Rule 16 of the Federal Rules of Civil Procedure, the Court hereby enters its Case Management Order governing the foregoing cases. These cases arise from arrests and detentions by the New York City Police Department around the time of the Republican National Convention in New York City in late August and early September 2004 ("RNC Cases"). They involve numerous named Plaintiffs and numerous Defendants including the City of New York, its Mayor and Commissioner of Police.

In these cases, issue has been joined (or will be joined shortly) and all of the material allegations of the complaints have been denied. The following schedule permits Plaintiffs in these actions the opportunity to participate in the consolidated discovery of Defendants scheduled to commence this fall in the related RNC Cases, as contemplated by the Court's Discovery Order #1 (entered on October 3, 2005), followed by a period of discovery of plaintiffs, non-consolidated defense witnesses and any other discovery in these actions.

The Court is advised that the parties do not consent to trial of this case by magistrate judge. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York. All motions and applications shall be governed by the Court's Individual Practices, including pre-motion conference requirements. This order may be modified only by agreement of the parties, subject to the Court's approval, or upon a showing of good cause.

DATE DUE

PLEADINGS & DISCOVERY

The parties have agreed to dispense with initial disclosures and have commenced discovery.

12/1/05

Plaintiffs shall have served any amended complaint adding claims or joining parties. No further amendment to the complaint shall be permitted without leave of court.

2/1/06

Depositions of Defendants' "Consolidated Witnesses," as set forth in the Court's Discovery Order #1, shall be completed.

3/1/06

All written discovery, including document requests and interrogatories, shall have been served, except as provided below.

5/1/06

All depositions of fact witnesses shall have been noticed. With respect to both fact and expert witnesses, unless the noticing party assents, depositions of particular witnesses are not to be held until the party producing the witness has responded to any outstanding interrogatories and requests for documents pertaining to that witness. Once a party has completed the deposition of a witness, that party shall not later seek to

re-depose that witness absent good cause.

- 6/1/06 All fact discovery shall have been completed.
- 7/1/06 Plaintiffs shall identify their expert witnesses for trial and provide the disclosures contemplated by the federal rules.
- 8/1/06 Depositions of plaintiffs' trial experts shall be completed.
- 9/1/06 Defendants shall identify their expert witnesses for trial and provide the disclosures contemplated by the federal rules.
- 10/1/06 Depositions of defendants' trial experts shall be completed.
- 11/1/06 All contention interrogatories and requests to admit shall be served.
- 12/1/06 All responses due to contention interrogatories and requests to admit.
- 12/15/06 All counsel must meet for at least one hour to discuss settlement no later than this date.
- Counsel for the parties have discussed holding a settlement conference before a Magistrate Judge. The parties request a settlement conference before a Magistrate Judge.
- Counsel for the parties have discussed the use of the Court's Mediation Program. The parties do not request that the case be referred to the Court's Mediation Program.
- Counsel for the parties have discussed the use of a privately retained mediator. The parties do not intend to use a privately retained mediator.

DISPOSITIVE MOTIONS

- 1/1/07 All dispositive motions shall be served. Pursuant to the undersigned's Individual Practices, the parties shall request a pre-motion conference in writing at least four weeks prior to this deadline.
- 2/1/07 Oppositions due to all dispositive motions.
- 3/1/07 Replies, if any, due to all dispositive motions.
- Within 30 days of the Court's ruling on dispositive motions Should any part of the case remain after the Court's ruling on dispositive motions, a Pre-Trial Conference with the Court shall be held. Prior to that conference, the parties shall consult and submit to the Court a Joint Pretrial Order prepared in accordance with the Undersigned's Individual

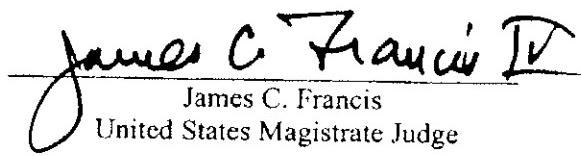
Practices and Rule 26(a)(3) of the Federal Rules of Civil Procedure. If this action is to be tried before a jury, proposed voir dire, jury instructions and a verdict form shall be filed with the Joint Pretrial Order. Counsel are required to meet and confer on the jury instructions and verdict form in an effort to make an agreed upon submission.

The parties have conferred and their present best estimate of the length of trial of an individual plaintiff's case is approximately 2 weeks.

SO ORDERED

DATED: New York, New York
October 9, 2005

Nov.



James C. Francis
United States Magistrate Judge

EXHIBIT N

Case 1:05-cv-03616-RJS-JCF Document 12

Filed 04/10/2008 Page 44 of 79

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JEFFREY BLACK,

Plaintiff,

-versus-

Filed 04/10/2008 Page 44 of 79
USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: 1110105
DATE FILED: 11/10/05

CONSOLIDATED CASE
MANAGEMENT ORDER

05 CV 3616 (KMK)

THE CITY OF NEW YORK, et al.,

Defendants.

CATHIE L. BELL,

Plaintiff,

-versus-

05 CV 3705 (KMK)

THE CITY OF NEW YORK, et al.,

Defendants.

ELIZABETH STARIN,

Plaintiff,

05 CV 5152 (KMK)

-versus-

THE CITY OF NEW YORK, et al.,

Defendants.

STUART HABER,

Plaintiff,

05 CV 6193 (KMK)

-versus-

THE CITY OF NEW YORK, et al.,

Defendants.

X

Pursuant to Rule 16 of the Federal Rules of Civil Procedure, the Court hereby enters its Case Management Order governing the foregoing cases. These cases arise from arrests and detentions by the New York City Police Department around the time of the Republican National Convention in New York City in late August and early September 2004 ("RNC

Cases"). They involve numerous named Plaintiffs and numerous Defendants including the City of New York, its Mayor and Commissioner of Police.

In these cases, issue has been joined (or will be joined shortly) and all of the material allegations of the complaints have been denied. The following schedule permits Plaintiffs in these actions the opportunity to participate in the consolidated discovery of Defendants scheduled to commence this fall in the related RNC Cases, as contemplated by the Court's Discovery Order #1 (entered on October 3, 2005), followed by a period of discovery of plaintiffs in these actions.

The Court is advised that the parties do not consent to trial of this case by magistrate judge. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York. All motions and applications shall be governed by the Court's Individual Practices, including pre-motion conference requirements. This order may be modified only by agreement of the parties, subject to the Court's approval, or upon a showing of good cause.

<u>DATE DUE</u>	<u>PLEADINGS & DISCOVERY</u>
12/30/05	Plaintiffs shall have served any amended complaint adding claims or joining parties. No further amendment to the complaint shall be permitted without leave of court.
2/1/06	Depositions of Defendants' "Consolidated Witnesses," as set forth in the Court's Discovery Order #1, shall be completed.
3/1/06	All written discovery, including document requests and interrogatories, shall have been served, except as provided below.
5/1/06	All depositions of fact witnesses shall have been noticed. With respect to both fact and expert witnesses, unless the noticing party assents, depositions of particular witnesses are not to be held until the party producing the witness has responded to any outstanding interrogatories and requests for documents pertaining to that witness. Once a party has

completed the deposition of a witness, that party shall not later seek to re-depose that witness absent good cause.

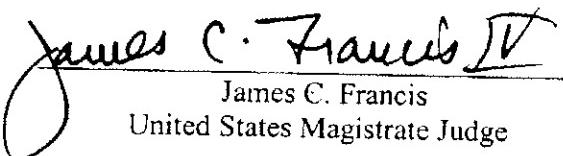
- | | |
|---|--|
| 6/1/06 | All fact discovery shall have been completed. |
| 7/1/06 | Plaintiffs shall identify their expert witnesses for trial and provide the disclosures contemplated by the federal rules. |
| 8/1/06 | Depositions of plaintiffs' trial experts shall be completed. |
| 9/1/06 | Defendants shall identify their expert witnesses for trial and provide the disclosures contemplated by the federal rules. |
| 10/1/06 | Depositions of defendants' trial experts shall be completed. |
| 11/1/06 | All contention interrogatories and requests to admit shall be served. |
| 12/1/06 | All responses due to contention interrogatories and requests to admit. |
| 12/15/06 | All counsel must meet for at least one hour to discuss settlement no later than this date. |
| | Counsel for the parties have discussed holding a settlement conference before a Magistrate Judge. The parties request a settlement conference before a Magistrate Judge. |
| | Counsel for the parties have discussed the use of the Court's Mediation Program. The parties do not request that the case be referred to the Court's Mediation Program. |
| | Counsel for the parties have discussed the use of a privately retained mediator. The parties do not intend to use a privately retained mediator. |
| <u>DISPOSITIVE MOTIONS</u> | |
| 1/1/07 | All dispositive motions shall be served. Pursuant to the undersigned's Individual Practices, the parties shall request a pre-motion conference in writing at least four weeks prior to this deadline. |
| 2/1/07 | Oppositions due to all dispositive motions. |
| 3/1/07 | Replies, if any, due to all dispositive motions. |
| Within 30 days of the Court's ruling on dispositive motions | Should any part of the case remain after the Court's ruling on dispositive motions, a Pre-Trial Conference with the Court shall be held. Prior to that conference, the parties shall consult and submit to the Court a Joint |

Pretrial Order prepared in accordance with the Undersigned's Individual Practices and Rule 26(a)(3) of the Federal Rules of Civil Procedure. If this action is to be tried before a jury, proposed voir dire, jury instructions and a verdict form shall be filed with the Joint Pretrial Order. Counsel are required to meet and confer on the jury instructions and verdict form in an effort to make an agreed upon submission.

The parties have conferred and their present best estimate of the length of trial of an individual plaintiff's case is approximately 2 weeks.

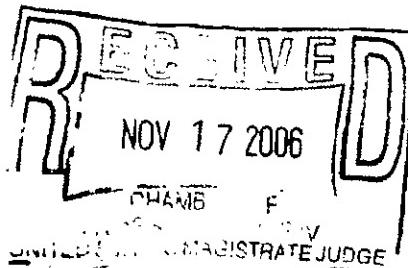
SO ORDERED

DATED: New York, New York
November 9, 2005



James C. Francis, Jr.
United States Magistrate Judge

EXHIBIT O



MEMO ENDORSED

Jeffrey A. Rothman
Attorney at Law
575 Madison Avenue, Suite 1006
New York, NY 10022
Tel.: (212) 348-9833; (212) 937-8450
Cell: (516) 455-6873
Fax: (212) 591-6343
jrothman@alumni.law.upenn.edu

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: <u>11/20/06</u>

November 17, 2006

By Hand

The Honorable James C. Francis IV
United States Magistrate Judge
United States District Court for the Southern District of New York
500 Pearl Street – Room 1960
New York, NY 10007

Re: Phillips, et al. v. City of New York, et al. 05 Civ. 7624 (KMK) (JCF);
Coburn, et al. v. City of New York, et al. 05 Civ. 7623 (KMK) (JCF);
Sloan, et al. v. City of New York, et al. 05 Civ. 7668 (KMK) (JCF);
Galitzer v. City of New York, et al. 05 Civ. 7669 (KMK) (JCF);
Bastidas, et al. v. City of New York, et al. 05 Civ. 7670 (KMK) (JCF);
Carney, et al. v. City of New York, et al. 05 Civ. 7672 (KMK) (JCF);
Sikelianos v. City of New York, et al. 05 Civ. 7673 (KMK) (JCF);
Jarick v. City of New York, et al. 05 Civ. 7626 (KMK) (JCF);

Please
docket
in all
cases

Dear Judge Francis:

just 3, I write to respectfully request, jointly with counsel for defendants, an additional extension of months on all remaining deadlines pursuant to the Case Management Orders in the above-captioned RNC cases. Pursuant to Your Honor's Discovery Order #2 of November 13, 2006, the parties are in the process of setting up dates for the depositions of twenty-seven "Arresting Officers" over the course of the next several months in the above-captioned cases. In addition to these, a significant number of Commanding Officer depositions, and depositions of officials of the Hudson River Park Trust, will need to be scheduled in the above-captioned cases, in conjunction with the resolution of other discovery issues associated therewith.

This is the parties' third joint request for an extension of the Case Management Orders in the above-captioned cases.

Respectfully submitted,

J. Rothman
Jeffrey Rothman

11/17/06

cc: James Mirro, Esq. (by email)
Fred Weiler, Esq. (by email)
Jeffrey Dougherty, Esq. (by email)
Curt Beck, Esq. (by email)

*No further extensions.
Application granted as modified.
SO ORDERED.
James C. Francis IV
USM J*

MEMO ENDORSED



MICHAEL A. CARDODOZ
Corporation Counsel

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007

FRED M. WEILER
Special Federal Litigation Division
TEL 212-788-1817
FAX: 212-788-9776

March 2, 2007

VJA FAX 212-805-7930
Honorable James C. Francis IV
United States Magistrate Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: <u>3/5/07</u>

Re: Drescher v. City of New York et al, 05 CV 7541 (KMK) (JCF)

Dear Judge Francis:

On behalf of plaintiff and defendants, I write to request a modification of the Case Management Order (CMO) in the above-captioned case, which currently provides for a fact-discovery cut-off date of March 1, 2007. Both sides are exchanging written discovery, but need additional time for fact discovery. Accordingly, plaintiff and defendants jointly request that the Court grant an extension to the CMO deadlines such that fact discovery would be completed by July 1, and the remaining CMO deadlines extended by ~~4~~ months. In addition, plaintiff had been *pro se*, but only recently retained an attorney. If this meets with your approval, would you please "so order" it?

Thank you for your time and consideration.

(2)

Application granted as modified.
No further extensions.

so ORDERED

JAMES C. FRANCIS IV

Respectfully submitted,

Fred M. Weiler (FW 5864)

cc: Jeffrey Rothman, Esq. (via e-mail)

EXHIBIT P

Page 1

1

2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

3 -----x

4 MICHAEL SCHILLER, FRANCESCA FIORENTINI,
5 ROBERT CURLEY AND NEAL CURLEY,
Plaintiffs,

6 -against-

7 THE CITY OF NEW YORK;
8 RAYMOND KELLY, Commissioner
of the New York City Police
Department; TERENCE MONAHAN,
9 Assistant Chief of the Bronx
Bureau of the New York
10 City Police Department, et al.,
Defendants.

11 -----x

12 December 1, 2005
10:00 a.m.

13

14

15 Deposition of TERENCE MONAHAN, held
16 at the offices of NEW YORK CIVIL LIBERTIES
17 UNION, 125 Broad Street, New York,
18 New York, before Vicky Galitsis, a Certified
19 Shorthand Reporter and Notary Public of the
20 State of New York.

21

22

23

24 GREENHOUSE REPORTING, INC.
363 Seventh Avenue - 20th Floor
New York, New York 10001
25 (212) 279-5108

<p>1 2 APPEARANCES: 3 NEW YORK CIVIL LIBERTIES UNION Attorneys for the Plaintiffs 4 125 Broad Street New York, New York 10004 5 BY: CHRISTOPHER DUNN, ESQ., of Counsel 6 7 LESLIE L. LEWIS, ESQ. Attorney for the Plaintiff Concepcion 162 West 21st Street, 2 So New York, New York 10011 -and- 9 KAREN WOHLFORTH, ESQ. 299 Broadway, Suite 1705 New York, New York 10007 10 MICHAEL L. SPIEGEL, ESQ. Attorney for the Plaintiffs 11 Abdell, et al 111 Broadway, Suite 1305 New York, New York 10006 14 ALAN LEVINE, ESQ. Attorney for the Plaintiffs Abdell, et al 207 West 106th Street, Suite 11C New York, New York 10025 17 ALAN D. LEVINE, ESQ. Attorney for the Plaintiffs Meehan, et al 80-02 Kew Gardens Road, Suite 1010 Kew Gardens, New York 11415 20 JEFFREY A. ROTHMAN, ESQ. Attorney for the Plaintiffs Coburn, et al 575 Madison Avenue, Suite 1006 New York, New York 10022 25</p>	<p>Page 2</p> <p>1 2 APPEARANCES: 3 JAMES J. MEYERSON, ESQ. Attorney for the 4 Plaintiff Carol Dudek and others 396 Broadway New York, New York 10013 6 7 8 NEW YORK CITY LAW DEPARTMENT OFFICE OF THE CORPORATION COUNSEL 9 Attorneys for the Defendants 10 100 Church Street New York, New York 10007-2601 BY: JAY A. KRANIS, ESQ. JEFFREY DOUGHERTY, ESQ. FRED M. WEILER, ESQ. 12 13 14 POLICE DEPARTMENT SPECIAL COUNSEL Attorneys for the Defendants 15 One Police Plaza, Room 1406A New York, New York 10038 BY: RUBY MARIN, ESQ. S. ANDREW SCHAEFFER, ESQ. 17 18 19 20 21 22 23 24 25</p>
<p>1 2 APPEARANCES: 3 ALLEGART BERGER & VOGEL, LLP Attorneys for the 4 Plaintiff Noel Gross 111 Broadway, 18th Floor New York, New York 10006 5 BY: ROBERT F. FINKELSTEIN, ESQ., of Counsel 6 7 MOORE & GOODMAN, LLP Attorneys for the 8 Plaintiffs MacNamara, et al 9 99 Park Avenue, Suite 1600 10 New York, New York 10016 BY: DAVID MILTON, ESQ. 11 WILLIAM GOODMAN, ESQ. 12 13 14 LAW OFFICES OF SUSAN TAYLOR Attorneys of the 15 Plaintiffs Abdell, et al 16 575 Madison Avenue, 10th Floor New York, New York 10022 BY: NORMAN BEST, ESQ., 17 Of Counsel 18 19 AMERICAN CIVIL LIBERTIES UNION Attorneys for the 20 Plaintiffs Abdell, et al 21 125 Broad Street, 18th Floor New York, New York 10004-2400 BY: RICK BEST, ESQ., 22 of Counsel 23 24 25</p>	<p>Page 3</p> <p>1 2 T. Monahan TERENCE MONAHAN, 3 having been first duly sworn by a 4 Notary Public of the State of 5 New York, was examined and testified 6 as follows: 7 EXAMINATION BY MR. DUNN: 8 Q. Good morning. 9 A. Morning. 10 Q. Thank you for joining us. For 11 better or for worse, this is not going to be a 12 short process. So as Mr. Krannis may have told 13 you, this is going to be more than a one-day 14 event. 15 We are going to go until 16 4 o'clock today, and then we will agree upon a 17 date that's convenient for everyone for the 18 continuation of this deposition. 19 MR. DUNN: The City is 20 representing Chief Monahan, correct? 21 MR. KRANIS: Yes. 22 Q. Chief, have you previously been 23 deposed? 24 A. In this case? 25 Q. No, in any case.</p>

2 (Pages 2 to 5)

<p>1 T. Monahan 2 of how the police would deal with 3 demonstration activity. 4 A. Yes. 5 Q. So what do you recall, if 6 anything, him talking about in terms of the 7 legal aspects of dealing with demonstrations? 8 A. Specifically I cannot recall 9 exactly what he said. But I know we did 10 discuss stuff along the lines of blocking 11 streets, blocking buses, stuff along those 12 lines. Exactly what was discussed, I don't 13 recall. 14 Q. When you talk about blocking 15 streets, are you talking about people either 16 sitting down or lying in a roadway? 17 A. No. Blocking streets, blocking 18 it in any way, manner, shape or form. 19 Q. In a roadway, is that correct? 20 A. Street, building line to 21 building. 22 Q. Building line to building line. 23 So you are including sidewalks within that? 24 A. Yes. 25 Q. What do you recall, if anything,</p>	<p>Page 70</p> <p>1 T. Monahan 2 Q. I will show that to you later. 3 A. Okay. 4 Q. Any other written materials you 5 recall receiving during that training? 6 A. That's the only one I recall. I 7 may have received others, but I do recall 8 that. 9 Q. What do you recall, if anything, 10 about any discussion at that training by Kerry 11 Sweet or anyone else about the need for people 12 who are walking on a sidewalk to get a permit? 13 A. I don't recall him mentioning 14 that. 15 Q. You said there were three 16 training sessions that you believe you 17 attended. The first one was approximately the 18 Spring of 2004. When was the next one? 19 A. The next one was early Summer of 20 2004. Early or later summer, maybe end. 21 Sometime of July, beginning of July. 22 Q. Where did that training take 23 place? 24 A. Down at headquarters. 25 Q. By headquarters, you mean One PP?</p>
<p>1 T. Monahan 2 about Captain Sweet saying on this topic? 3 A. I don't recall what he said. 4 Q. Do you have any general 5 recollection about what he said about blocking 6 buses? 7 A. I don't recall exactly, no. 8 Q. Did he make a PowerPoint 9 presentation in conjunction with his training? 10 A. I don't recall. 11 Q. Were you provided with any 12 written materials with respect to this 13 training session, on any topic? 14 A. Yes. 15 Q. What materials were you provided? 16 A. Legal guidelines. 17 Q. Is this a publication by the 18 legal bureau about guidelines to be used 19 during the convention? 20 A. It was a guideline, I believe, 21 just of the overall laws regarding free 22 speech, public assemblage and of such. 23 Q. How many pages would you estimate 24 that was? 25 A. It was fairly substantial.</p>	<p>Page 71</p> <p>1 T. Monahan 2 A. Yes. 3 Q. Where at One PP did that training 4 take place? 5 A. The auditorium. 6 Q. Was it a full group of people at 7 the auditorium? 8 A. Yes. 9 Q. Do you have any idea how many 10 that auditorium seats, approximately? 11 A. No. 12 Q. Do you have any idea who was in 13 attendance at that training? Again I don't 14 mean by identity, I mean by category, either 15 by rank or type of responsibility, any way 16 that you can describe them as a group. 17 A. Superior officers from the rank 18 of captain up. Who was invited, I'm not sure. 19 Q. How long did that training last? 20 A. I believe it was a couple of 21 hours. 22 Q. What was the substance of that 23 training? 24 A. It was a briefing by the intelligence bureau.</p>

<p style="text-align: right;">Page 74</p> <p>1 T. Monahan 2 Q. Was that provided by Commissioner 3 Cohen? 4 A. Yes. 5 Q. Did any aspect of that briefing 6 concern any aspect of the policing of 7 demonstrations? 8 A. The policing of, no. 9 Q. Again I want to be clear. Any 10 aspect of interaction between police officers 11 and people involved in protest activity? 12 A. No. 13 Q. No discussion about that? 14 A. No. We had the discussion -- 15 Q. I take it that means there was no 16 discussion about intelligence the police 17 department believed it had received about 18 potential disruptive behavior in conjunction 19 with demonstrations? 20 MR. KRANIS: You can answer yes 21 or no. 22 A. Yes. 23 Q. It did include that? 24 A. Yes. 25 Q. From my perspective, that would</p>	<p style="text-align: right;">Page 76</p> <p>1 T. Monahan 2 MR. DUNN: To that extent, that's 3 fine. 4 Q. Why don't you try to do it within 5 those parameters? 6 MR. KRANIS: Don't tell them 7 anything about what Commissioner Cohen 8 told you about the intelligence that he 9 had about any groups or about the RNC 10 in general. 11 MR. DUNN: That's a little too 12 broad. You don't want him to disclose 13 specific information about specific 14 events, that's one thing. But he 15 certainly, I think, can talk about -- 16 he can categorize what was discussed. 17 MR. KRANIS: I don't have any 18 problem with that. 19 MR. DUNN: Let's start with that 20 and then we will go and you can tell 21 him when to stop. 22 MR. KRANIS: Okay. Stop. 23 Q. Setting aside what he may have 24 said about any particular group or about any 25 particular piece of intelligence, what was the</p>
<p style="text-align: right;">Page 75</p> <p>1 T. Monahan 2 include some aspect of the policing of 3 demonstrations. Again I want to try to 4 emphasize to you when I am asking you 5 questions about the policing of demonstrations 6 I mean that in the broadest of terms. 7 A. Normally I take the concept of 8 policing demonstrations, how we're going to 9 respond to a group. 10 Q. I am talking about everything 11 from how you plan, to what you know in 12 advance, to how you think about what you are 13 going to do, to what you did, to what you did 14 after you did it. 15 A. Okay. 16 Q. What discussion was there at that 17 briefing about the policing of demonstrations, 18 in the broadest sense? 19 MR. KRANIS: To the extent that 20 the question asks for and/or the answer 21 would require direct recitation or 22 advice about what Commissioner Cohen 23 told the assemblage on the basis of 24 intelligence, I will object and 25 instruct the witness not to answer.</p>	<p style="text-align: right;">Page 77</p> <p>1 T. Monahan 2 general substance of the information he 3 conveyed to you during this briefing as it 4 relates to the policing of demonstrations 5 during the convention? 6 A. Groups that they believe would be 7 attending the demonstration, tactics they had 8 used in the past. 9 Q. Tactics the groups had used? 10 A. Yes. A lot of it was on what 11 groups he thought were going to be there and 12 tactics they had used in the past. 13 Q. Just so I'm clear about this, I 14 take it from what you are saying that 15 Commissioner Cohen is talking about groups 16 other than the organizers of an event who 17 might show up in an event and then might 18 deploy certain tactics that specific group 19 showing up at the event had used at some prior 20 occasion, is that correct? 21 MR. KRANIS: I object to the form 22 of the question. Can you just try to 23 rephrase it? 24 Q. Did you understand what I was 25 saying?</p>

	Page 78		Page 80
1	T. Monahan	1	T. Monahan
2	(Record read.)	2	on. How much of a focus was on specific
3	A. I don't know if these were	3	groups that might participate in unlawful
4	organizers or non-organizers, but these were	4	behavior?
5	groups that were showing up.	5	A. There was no focus on what groups
6	Q. So your recollection was this	6	were going to do unlawful activity on that
7	might have encompassed not only people showing	7	date.
8	up at someone else's event, but people who are	8	Q. Would it be fair to say, as you
9	actually planning the event itself?	9	recall it, the presentation there was to the
10	A. Yes.	10	effect that the department expected on
11	Q. Did the presentation that he made	11	August 31st that there would be a number of
12	at that time get down to the level of a	12	groups who might be engaged in unlawful
13	discussion about particular events?	13	activity?
14	A. No. Can I ask counsel?	14	A. Yes.
15	MR. DUNN: Of course.	15	THE WITNESS: Can we take a break
16	(Witness and counsel confer.)	16	shortly?
17	A. There was mention about a date,	17	MR. DUNN: We can take a break
18	August 31st, that the groups had been planning	18	right now if you like.
19	for a day of civil disobedience and potential	19	(Recess: 11:28 to 11:39 a.m.)
20	violence.	20	BY MR. DUNN:
21	Q. Beyond August 31st, was there	21	Q. Chief Monahan, was there any
22	discussion about events scheduled for any	22	discussion, at this training session that
23	other date?	23	we've been discussing, about specific events
24	A. No.	24	at which these tactics might be used?
25	Q. With respect to August 31st	25	A. No.
	Page 79		Page 81
1	T. Monahan	1	T. Monahan
2	itself, was there discussion about particular	2	Q. What written materials, if any,
3	groups who might engage in these tactics?	3	were given out at this event?
4	MR. KRANIS: You can answer yes	4	A. None that I recall.
5	or no.	5	Q. Was there a PowerPoint
6	(Record read.)	6	presentation that was made?
7	A. They were of the opinion that all	7	A. Yes.
8	the groups were going to focus on August 31st.	8	Q. Was that a PowerPoint
9	Q. I understand that. I understand	9	presentation that was made in conjunction with
10	you are talking about August 31st. I am	10	Commissioner Cohen's presentation?
11	talking with respect to that particular date.	11	A. Yes.
12	Was there, as part of	12	Q. Other than the presentation that
13	Commissioner Cohen's presentation, a	13	was made about intelligence, was there any
14	discussion of specific groups who on that date	14	other topic discussed at this briefing?
15	the department expected to engage in unlawful	15	A. No.
16	tactics?	16	Q. The prior briefing you mentioned
17	A. As I said, they expected all the	17	Chief McManus had given a presentation about,
18	groups to participate in unlawful tactics on	18	I think you said, an overview of the RNC.
19	that date.	19	By that were you referring to an
20	Q. So are you saying that the	20	overview of the policing of the convention, or
21	expectation was that everyone engaged in a	21	are you talking about something broader?
22	demonstration on August 31st was expected to	22	A. Something broader; the various
23	engage in unlawful behavior?	23	portions of the convention, inner perimeter,
24	A. No.	24	outer perimeter, transit, hotels,
25	Q. That's what I'm trying to focus	25	transportation, mobile field forces, the

21 (Pages 78 to 81)

<p>1 T. Monahan 2 on it. 3 MR. DUNN: This copy I have does 4 not have the Bates number on it, but I 5 will make sure the record includes a 6 statement about the Bates number that's 7 on it. 8 MR. KRANIS: Okay. 9 MR. DUNN: Okay. Off the record. 10 (Discussion off the record.) 11 MR. DUNN: I just want to note 12 for the record that we're going to 13 adjourn the deposition now with the 14 consent of everyone, and we will 15 continue it at a mutually convenient 16 date that we will have to designate. 17 MR. SPIEGEL: If I may say on the 18 record, throughout both this deposition 19 and at times during Inspector Galati's 20 deposition, instructions not to answer 21 questions were issued by Mr. Kranis. 22 And while neither I nor any of 23 the other plaintiffs' counsel in the 24 room spoke up, we will have objected 25 collectively to those instructions and</p>	<p>Page 242</p> <p>1 T. Monahan 2 I, the witness herein, having 3 read the foregoing testimony do hereby 4 certify it to be a true and correct 5 transcript, subject to the corrections, 6 if any, shown on the attached page. 7</p> <hr/> <p>10 TERENCE MONAHAN</p> <p>13 Subscribed and sworn to 14 before me this _____ day 15 of _____, 2005. 16</p>																
<p>1 T. Monahan 2 we will take them up at later time. 3 MR. KRANIS: I understood that 4 you did not agree with me. 5 (Time noted: 1:35 p.m.)</p>	<p>Page 243</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; width: 30%;">WITNESS</th> <th style="text-align: left;">INDEX</th> <th style="text-align: right;">PAGE</th> </tr> </thead> <tbody> <tr> <td>T. Monahan</td> <td>EXAMINATION BY Mr. Dunn</td> <td style="text-align: right;">5</td> </tr> </tbody> </table> <p style="text-align: center;">EXHIBITS</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; width: 30%;">MONAHAN</th> <th style="text-align: right;">PAGE LINE</th> </tr> </thead> <tbody> <tr> <td>1 Violation, Bates stamped SCH 15</td> <td style="text-align: right;">231 3</td> </tr> <tr> <td>2 Violation</td> <td style="text-align: right;">232 3</td> </tr> <tr> <td>3 Document Bates stamped Schiller 21 and 22</td> <td style="text-align: right;">232 22</td> </tr> <tr> <td>4 Document Bates stamped SCH 1 and 2</td> <td style="text-align: right;">233 20</td> </tr> </tbody> </table>	WITNESS	INDEX	PAGE	T. Monahan	EXAMINATION BY Mr. Dunn	5	MONAHAN	PAGE LINE	1 Violation, Bates stamped SCH 15	231 3	2 Violation	232 3	3 Document Bates stamped Schiller 21 and 22	232 22	4 Document Bates stamped SCH 1 and 2	233 20
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4 Document Bates stamped SCH 1 and 2	233 20																

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EXHIBIT Q

Page 1

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4 -----x

5 MICHAEL SCHILLER, et al.,
6 Plaintiffs,
7 -against-

8 THE CITY OF NEW YORK, et al.,
9 Defendants.
10 -----x

11 HACER DINLER, et al.,
12 Plaintiffs,
13 -against-

14 THE CITY OF NEW YORK, et al.,
15 Defendants.
16 -----x

17 July 7, 2006
18 10:00 a.m.

19
20 Deposition of JOSEPH ESPOSITO, held at
21 the offices of NEW YORK CIVIL LIBERTIES
22 UNION, 125 Broad Street, New York, New York,
23 before Vicky Galitsis, a Certified Shorthand
24 Reporter and Notary Public of the State of
25 New York.

26
27
28
29 GREENHOUSE REPORTING, INC.
30 363 Seventh Avenue - 20th Floor
31 New York, New York 10001
32 (212) 279-5108

<p>1 2 APPEARANCES: 3 4 NEW YORK CIVIL LIBERTIES UNION 5 Attorneys for the Plaintiffs Michael Schiller, et al and Hacer Dinler, et al. 6 125 Broad Street New York, New York 10004 7 BY: CHRISTOPHER DUNN, ESQ., -and- 8 PALYN HUNG, ESQ. of Counsel 9 10 LAW OFFICES OF SUSAN TAYLOR Attorneys for the Plaintiffs Abdell, et al. 575 Madison Avenue, 10th Floor 12 New York, New York 10022 BY: NORMAN BEST, ESQ., of Counsel 13 14 ALLEGART BERGER & VOGEL, LLP Attorneys for the Plaintiff Noel Gross 111 Broadway, 18th Floor New York, New York 10006 BY: ROBERT F. FINKELSTEIN, ESQ., of Counsel 15 16 17 18 19 20 OLIVER & OLIVER, ESQS. Attorneys for the Plaintiff Dennis Kyne c/o 200 East 10th Street, #917 22 New York, New York 12202 BY: ERIC ADLER, ESQ., of Counsel 23 24 25</p>	<p>Page 2</p> <p>1 2 IT IS HEREBY STIPULATED AND AGREED, 3 by and between the attorneys for the 4 respective parties hereto, that all 5 objections, except as to form, shall be 6 reserved to the time of trial. 7 IT IS FURTHER STIPULATED AND AGREED 8 that the sealing and filing of the within 9 deposition are hereby waived. 10 IT IS FURTHER STIPULATED AND AGREED 11 that the within deposition may be 12 subscribed and sworn to by the witness 13 being examined before a Notary Public 14 other than the Notary Public before whom 15 this deposition was begun. 16 17 18 -oo- 19 20 21 22 23 24 25</p>
<p>1 2 APPEARANCES: (Continued.) 3 ALAN D. LEVINE, ESQ. Attorney for the Plaintiff 4 Greta Smith, et al 80-02 Kew Gardens Road, Suite 1010 5 Kew Gardens, New York 11415 6 7 ZELDA STEWARD, ESQ. Attorney for the Plaintiff 8 Jody Concepcion 299 Broadway, 17th Floor 9 New York, New York 10007 10 11 NEW YORK CITY LAW DEPARTMENT OFFICE OF THE CORPORATION COUNSEL 12 Attorneys for the Defendants 100 Church Street 13 New York, New York 10007-2601 BY: PETER FARRELL, ESQ. 14 -and- MARK ZUCKERMAN, ESQ., of Counsel 15 16 17 ANDREW SCHAFER, ESQ. Deputy Commissioner Legal Matters One Police Plaza, Room 140A New York, New York 10038 (present a.m. session) 20 21 RUBY MARIN, ESQ. Special Counsel to Deputy Commissioner Legal Matters One Police Plaza, Room 140A New York, New York 10038 (present p.m. session) 24 25 ALSO PRESENT: Brian Derr, NYC Law Department Intern</p>	<p>Page 3</p> <p>1 2 E. Esposito 3 JOSEPH ESPOSTO, having been first duly sworn by a 4 Notary Public of the State of 5 New York, was examined and testified 6 as follows: 7 EXAMINATION BY MR. DUNN: 8 Q. Good morning, Chief Esposito. 9 A. Good morning. 10 Q. A couple of preliminaries. 11 First, as I assume you understand, you're not 12 a defendant in this case. There is no 13 allegation of wrongdoing on your part. 14 When did you learn you would be 15 deposed in this matter? 16 A. I don't remember. 17 Q. Approximately how long ago would 18 you say? 19 A. A couple of months. 20 Q. Since learning you would be 21 deposed, have you had conversations with 22 anyone from inside the police department about 23 this deposition? 24 A. Yes. 25 Q. With whom have you had those</p>

<p style="text-align: right;">Page 182</p> <p>1 E. Esposito 2 specifically. That's my point. 3 Q. I understand. Let's be clear 4 about that. I understand you may not remember 5 the particulars as to the when or the where, 6 or even the who was there. 7 But is it correct that as you sit 8 here today, you do recall participating in a 9 meeting where at least Commissioner Kelly was 10 present where this particular decision was 11 made?</p> <p>12 A. Correct.</p> <p>13 Q. What was the reason for the 14 department deciding to have a no summons 15 policy during the convention?</p> <p>16 MR. FARRELL: Objection. He went 17 through all these factors in this 18 morning's testimony.</p> <p>19 MR. DUNN: He identified a bunch 20 of factors that might be circumstances 21 under which such a decision might be 22 made for a particular event. It wasn't 23 particular to the convention.</p> <p>24 MR. FARRELL: He spent a 25 considerable amount of time testifying</p>	<p style="text-align: right;">Page 184</p> <p>1 E. Esposito 2 We knew from intelligence sources 3 that a lot of people with past criminal 4 history would come in and attempt violent 5 acts. There was a threat of terrorism, that 6 intel was telling us this would be a good 7 venue for a terrorist attack. 8 We want to stop the criminal 9 activity from continuing. A C summons is not 10 the best way to do that many times. I think 11 that's all. I may have missed one or two. 12 Q. Okay. Were these considerations 13 that were discussed at this meeting where the 14 decision was made?</p> <p>15 A. Yes. The best possible 16 prosecution was taken into consideration. You 17 need a proper identification to go forward 18 with a prosecution. Especially if a lot of 19 these people were coming in from out of the 20 City.</p> <p>21 Q. I take it that the issue of 22 giving summonses to people who were from out 23 of the City or out of state is an issue that 24 the police department deals with every day?</p> <p>25 A. That's correct.</p>
<p style="text-align: right;">Page 183</p> <p>1 E. Esposito 2 about those factors. You can ask him 3 if any of those factors weren't 4 applicable. 5 You asked him quite a lengthy 6 series of questions about the reasons 7 why a no summons policy was utilized. 8 MR. DUNN: No, it was not a 9 question about the convention. It was 10 a question about the general policy. 11 Q. Chief Esposito, why was a no 12 summons policy adopted for the convention? 13 MR. FARRELL: I'm going to object 14 and I'm going to put a note on the 15 record that he's previously testified 16 about the reasons why. 17 A. Okay. There is a number of 18 reasons why. Information about -- from 19 intelligence, open sources that people were 20 going to come to the City during the RNC for 21 the purpose of shutting down the City, 22 shutting down the RNC, committing criminal 23 acts. They were going to come with false IDs, 24 with no IDs. A lot of people from out of 25 state would come in.</p>	<p style="text-align: right;">Page 185</p> <p>1 E. Esposito 2 Q. Is it fair to say that the 3 department's standard summons policies and 4 procedures specifically take into account 5 considerations about people being from out of 6 the City or out of the state? 7 MR. FARRELL: Objection. 8 A. I'm sorry? 9 (Question read.) 10 A. Yes. 11 Q. Did you and Commissioner Kelly 12 and perhaps First Deputy Commissioner Grosso 13 give any consideration to applying this policy 14 to particular events, as opposed to the entire 15 RNC? 16 MR. FARRELL: Objection. 17 A. Every incident is separate from 18 the other. An incident commander could have 19 made any recommendation he or she wanted. An 20 incident commander on the scene of an incident 21 could have made a recommendation. But we have 22 to rely on our incident commanders for the 23 best course of action. 24 Q. I understand that. But this is a 25 decision that was not made by an incident</p>

<p style="text-align: right;">Page 186</p> <p>1 E. Esposito 2 commander, this was a decision that was made 3 by you and Commissioner Kelly. 4 A. Right. 5 Q. What I'm asking you is, when the 6 two of you made this decision, what 7 consideration, if any, did you give to having 8 this policy apply to particular events where 9 there were particular concerns as opposed to 10 having it apply throughout the convention to 11 all events? 12 A. That's always an option. 13 MR. FARRELL: Objection. 14 Q. Is that an option that you 15 considered? 16 MR. FARRELL: Objection. If you 17 are asking him about his discussions 18 with Commissioner Kelly as a 19 deliberative process as to why this was 20 adopted, you can ask him what the 21 policy was and why they adopted it. 22 He's given you both. 23 I think you're trying to get at 24 the conversations leading up to the 25 adoption of the policy. And I'm going</p>	<p style="text-align: right;">Page 188</p> <p>1 E. Esposito 2 there would be a no summons policy during the 3 convention, that they were also informed or 4 otherwise would have known that they 5 nonetheless would have had the discretion to 6 issue summonses to people? 7 MR. FARRELL: Objection. 8 A. It's always an option. They can 9 always bring that to our attention. Was it 10 articulated? It doesn't have to be 11 articulated. 12 Q. What does that mean? For 13 instance, let's just take an example. We had 14 a client whose case we settled, so it's not a 15 case anymore. A single person who got 16 arrested standing on the sidewalk, they went 17 to Pier 57. 18 If the captain who had ordered 19 that arrest had been inclined to give this 20 woman a summons who was charged with blocking 21 the sidewalk or standing on it, what would he 22 have to have done to get permission to make an 23 exception to the no summons policy? 24 MR. FARRELL: Objection. 25 A. Bring it to a supervisor's</p>
<p style="text-align: right;">Page 187</p> <p>1 E. Esposito 2 to assert the deliberative process on 3 behalf of the City. 4 It's clearly stated what the 5 policy was, and he articulated twice 6 now, once this morning and once this 7 afternoon, the reasons why the policy 8 was adopted. 9 Q. Chief Esposito, do you recall if 10 at the time this decision was made that you 11 believed that the concerns that you mentioned 12 were concerns that would apply to every single 13 planned RNC event? 14 A. Generally speaking, this would be 15 the policy. But incident commanders, anybody 16 on the scene could bring it to our attention 17 that they wanted to not put somebody into the 18 system and give a DAT. 19 We give our commanders a lot of 20 leeway to make the decisions based on the 21 facts at that particular incident. We're not 22 at every incident, we have to rely on our 23 incident commanders. 24 Q. Is it your testimony that when 25 the operations people were instructed that</p>	<p style="text-align: right;">Page 189</p> <p>1 E. Esposito 2 attention. 3 Q. What supervisor did you 4 understand had the authority to make the 5 exception to the no summons policy you and 6 Commissioner Kelly made? 7 A. Every situation is different. 8 Q. I understand every situation is 9 different. I'm trying to understand who would 10 have had the authority to say -- 11 A. Depending on the situation, it 12 could have been that captain or it could have 13 been me. It depends on the circumstances that 14 are developing as that situation is unfolding. 15 Q. So I want to understand what the 16 circumstances would have been at the 17 convention, in which a captain could have 18 decided to make an exception to the no summons 19 policy that you and Commissioner Kelly made. 20 A. We're talking hypothetically. 21 MR. FARRELL: Objection. 22 A. What I'm telling you is that a 23 captain could articulate to me a circumstance 24 where he gave or she gave a summons. 25 Chief, I gave this summons</p>

<p>1 E. Esposito 2 because A, B, C, and D. 3 Okay. Or I'd say, I don't like 4 it, don't do it again. 5 So every situation is different. 6 And if articulated it can be approved or not 7 approved. 8 Q. Do you know of a single instance 9 in which a summons was given to anyone 10 arrested in conjunction with the convention? 11 MR. FARRELL: Objection. 12 A. I don't recall any. There may 13 have been, I don't recall. 14 Q. I want to go back to the decision 15 that you and Commissioner Kelly made. The 16 question I started with was at the time you 17 made that decision, did you have reason to 18 believe that the factors that you identified 19 as the basis for the policy applied to, in 20 some form, every single event that was 21 scheduled to take place during the convention? 22 MR. FARRELL: Objection. 23 A. Again every event is individual. 24 As I've said, we leave it to the incident 25 commander.</p>	<p>Page 190</p> <p>1 E. Esposito 2 incident that can be judged a number of 3 different ways. It was a general policy that 4 no C summonses would be issued. That's how we 5 go into it. 6 There are exceptions to the 7 policy. And we leave that to the incident 8 commander at whatever venue he or she is at to 9 say the general rule is no C summonses, we're 10 going to DATs. Or if they want to articulate 11 an exception, they can. 12 And I don't doubt that they did. 13 I just don't have it here. You're saying they 14 didn't. I don't know. Maybe they did. 15 Q. Let's start with the UFPJ event 16 that was the big march on Sunday. 17 A. Sunday the 29th? 18 Q. The 29th. That's exactly the 19 date. 20 Which of the concerns which you 21 articulated as being the basis of the policy 22 were concerns that you had with respect to 23 that particular event? 24 MR. FARRELL: Objection. He's 25 identified these reasons as the basis</p>
<p>1 E. Esposito 2 Q. But in this incident you didn't 3 leave it to the incident commanders, you 4 established a policy for the entire 5 convention? 6 A. General policy, that's correct. 7 Q. General policy. So it was a 8 general policy that apparently was adhered to 9 with respect to all 1800 and some odd arrests 10 that took place during the convention? 11 A. I don't know. There may have 12 been summonses. 13 Q. There may have been, not that any 14 of us knows of. 15 MR. FARRELL: Objection. 16 A. I don't know, I haven't checked. 17 Q. The question I'm asking you is 18 when you made the decision to have a general 19 policy, did you have reason to believe at that 20 time that the concerns that you articulated as 21 justifying the policy, were concerns that were 22 applicable to all of the events that were 23 scheduled to take place during the convention? 24 MR. FARRELL: Objection. 25 A. Every incident is an individual</p>	<p>Page 191</p> <p>1 E. Esposito 2 for adopting the policy. He said that 3 they applied it to the entire RNC 4 period. He hasn't specified it by 5 event. 6 MR. DUNN: Well, now I'm asking 7 him to. 8 MR. FARRELL: If you understand 9 the question -- again, I don't 10 understand the question. Objection. 11 A. Are you saying which of my 12 reasons that helped my decision to make no 13 C summonses came into play during this event, 14 is that what you're saying? 15 Q. That's not quite what I'm saying. 16 Let's start with that. We can start with that 17 one. 18 A. Okay. 19 MR. FARRELL: Objection. 20 A. Give me the question again, 21 please. I'm sorry. 22 Q. Which, if any, of the concerns 23 that you identified as being justifications 24 for the no C summonses policy during the 25 convention were concerns that you specifically</p>

<p style="text-align: right;">Page 194</p> <p>1 E. Esposito 2 had with respect to the United for Peace and 3 Justice event scheduled for August 29th? 4 A. They all had potential. 5 Q. They all had potential for what? 6 A. To be part of that event. All 7 the concerns that I talked about had potential 8 to be involved with that event. 9 Q. So for instance, you started off 10 by saying if you had intelligence or 11 information, the people were coming for the 12 purpose of shutting down the RNC? 13 A. Correct. 14 Q. What was it about this event that 15 led you to believe that participants in this 16 event were there to shut down the RNC, which 17 was not scheduled to start until the next day? 18 A. The intelligence that we got, 19 that that is what a large part of the 20 demonstrators coming to New York City were 21 going to try and do. 22 Was it beyond the realm of 23 responsibility that they would crash through 24 the front of the Garden, that we let them 25 march, take it over?</p>	<p style="text-align: right;">Page 196</p> <p>1 E. Esposito 2 discussion about the impact that would have on 3 the length of time people would be kept in 4 police custody? 5 A. Yes. 6 Q. Was it recognized then that the 7 people would be in police custody much longer 8 than if the policy were not in place? 9 MR. FARRELL: Objection. 10 A. They would be in the system 11 longer, they would be in our custody longer. 12 Yeah, that was recognized. 13 Q. Was that recognized by 14 Commissioner Kelly? 15 A. Yes. 16 Q. At the time that the decision was 17 made about there being a no summons policy for 18 the convention, was there a discussion about 19 the impact it would have on the resources 20 needed to process arrestees? 21 A. Yes. 22 Q. Was it recognized that greater 23 resources would be needed, since everyone 24 would be going at least through a DAT step? 25 A. Yes.</p>
<p style="text-align: right;">Page 195</p> <p>1 E. Esposito 2 Q. As soon as they did that, they 3 would it not be eligible for a summons? 4 A. That's correct. 5 Q. We have to remember we're 6 focusing on people that were getting charged 7 with things like disorderly conduct and 8 parading without a permit. 9 A. I'm looking at the whole event, 10 I'm looking at the potential with those things 11 that I articulated. That's how I police it, 12 by looking at the whole event taking those 13 things into consideration. 14 Q. When a decision was made about 15 adopting a no summons policy, were there any 16 documents that were prepared that spelled out 17 the justifications for that policy? 18 A. I don't think so. Not that I 19 recall. 20 Q. Were there any documents that you 21 recall discussing any aspect of the decision 22 to adopt a no summons policy? 23 A. Not that I recall. 24 Q. When the decision was made to 25 have a no summons policy, was there a</p>	<p style="text-align: right;">Page 197</p> <p>1 E. Esposito 2 Q. What, if any, decisions were made 3 to address the need for additional arrest 4 processing resources, given the no summonses 5 policy? 6 A. What steps were taken? 7 (Question read.) 8 A. We developed the system that was 9 put in place to process the arrests. 10 Q. I take it by that you mean that 11 the arrest processing plan that was put 12 together by the department was specifically 13 done in recognition of the fact that the no 14 summonses policy would require additional 15 arrest processing resources? 16 A. No. That was one of the aspects. 17 Q. I don't mean that was the sole 18 consideration. 19 A. That's what you said. 20 Q. If I did, I didn't mean to say 21 that. 22 A. Okay. 23 Q. That was one of the 24 considerations in the design of the arrest 25 possess for the convention?</p>

<p style="text-align: right;">Page 354</p> <p>1 J. Esposito 2 A. I am sorry? 3 Q. In the normal circumstance outside 4 of a mass-arrest situation, outside of a 5 demonstration-related situation, when somebody 6 is arrested for a violation for a 7 quality-of-life crime, they are issued a 8 summons, they are not issued a Desk Appearance 9 Ticket or put through the system if they are 10 summons-eligible, correct? 11 MR. FARRELL: Objection. 12 A. If they are eligible, correct. 13 Q. And they spend maybe a hour in 14 custody based upon that, correct? 15 MR. FARRELL: Objection. 16 A. For a C summons? 17 Q. Yes. For the processing didn't you 18 say that usually took around a hour? 19 A. It depends. You know, we do warrant 20 checks now. So it could be 10 minutes. It 21 could be up to a hour. I think that is the 22 longest. 23 Q. But that is the time area we are 24 talking about, 10 minutes, an hour, somewhere in 25 that area?</p>	<p style="text-align: right;">Page 356</p> <p>1 J. Esposito 2 in a normal situation, a non-mass situation, if 3 somebody is arrested for Parading Without a 4 Permit or Disorderly Conduct Subsection 5 or 5 Disorderly Conduct Subsection 6 and they were 6 summons-eligible, no problems with their 7 identification or anything like that, they would 8 normally receive their summonses in somewhere in 9 the area of 10 minutes to an hour, correct? 10 MR. FARRELL: Objection. 11 A. For Disorderly Conduct, yes. I'm 12 not sure for Parading Without a Permit. 13 Q. Let's just take Disorderly Conduct 14 since you are sure about that. During the 15 Republican National Convention, somebody 16 arrested for Disorderly Conduct Subsection 5 or 17 6 could have spend 24 hours, 36 hours, 48 hours 18 in custody before being released for that same 19 offense, correct? 20 A. Correct. 21 MR. FARRELL: Objection. 22 A. Correct. 23 Q. Is it ever appropriate to arrest 24 somebody if they hadn't committed a crime? 25 A. No.</p>
<p style="text-align: right;">Page 355</p> <p>1 J. Esposito 2 A. I think an hour is somewhat in the 3 longest. 4 Q. Certainly not 24 hours? 5 A. Correct. 6 Q. And certainly not 48 hours? 7 A. Correct. 8 Q. During the Republican National 9 Convention people were spending 24 hours in jail 10 or 48 hours in jail arrested for offenses that 11 normally they would receive a C summons for and 12 be out in the area of about 10 minutes to an 13 hour, no? 14 MR. FARRELL: Objection. 15 A. No. 16 Q. Explain the distinction. Is that 17 because -- explain why not, sir? 18 A. Because you are equating an 19 individual with a quality-of-life offense on the 20 street to a what you call a mass-arrest 21 situation. Mass-arrest situation prior to the 22 RNC the vast majority were no-C-summons strategy 23 enforcement. 24 Q. Let me stop you there. 25 Is not the comparison I was making</p>	<p style="text-align: right;">Page 357</p> <p>1 J. Esposito 2 Q. What intelligence did you have that 3 suggested that people were coming to engage in 4 continuous unlawful conduct? 5 A. Briefings from my Intelligence 6 Division, briefing and information from my 7 Intelligence -- 8 Q. Given directly to you? 9 A. Yes. 10 Q. And given to your subcommittee? 11 A. At times. 12 Q. What intelligence information was 13 given to you specifically about people 14 continuing to engage in continuous unlawful 15 acts? 16 A. Just that. 17 Q. Well, what acts and what people and 18 where? 19 A. I don't recall right now. 20 Q. You don't have any details at all in 21 your memory about any of the intelligence 22 specifics that underlaid the intelligence 23 conclusion that people were coming to engage in 24 continuous unlawful activity? 25 MR. FARRELL: Objection.</p>

<p style="text-align: right;">Page 358</p> <p>1 J. Esposito 2 A. What you are saying was articulated 3 to me, that groups were going to come into the 4 City and engage in lawful activity, a variety of 5 unlawful activity. Everything from possible 6 bombing to assaults to civil disobedience. 7 Q. Who was in charge of gathering this 8 information and briefing you from the 9 Intelligence Division? 10 A. Well, the Commissioner of 11 Intelligence, David Cohen, is the number one 12 person, but at other times members of his staff 13 would brief me. 14 Q. Can you remember the names of any of 15 his staff members who briefed you in 16 intelligence issues in anticipation of the 17 Republican National Convention? 18 A. Kevin Perham, P-E-R-H-A-M. I forget 19 the others. 20 Q. How many times were you briefed 21 independently in a one-on-one conversation by 22 either Mr. Cohen or his subordinates within the 23 Intelligence Division about intelligence matters 24 regarding the Republican National Convention? 25 A. I don't recall now.</p>	<p style="text-align: right;">Page 360</p> <p>1 J. Esposito 2 Q. When you say intelligence, does that 3 include information garnered from open sources, 4 do you make a distinction between open sources 5 of information and intelligence that is 6 gathered? 7 A. I am talking about both. 8 Q. So within that category, just so we 9 are on the same page in terms of terminology, is 10 it fair to say non-open source intelligence and 11 intelligence based upon open source? 12 A. Yes. 13 Q. Do you have any specific 14 recollection of any of the specific individuals 15 who were expected to come to New York City 16 during the Republican National Convention and 17 engage in continuous unlawful activity? 18 MR. FARRELL: Objection. 19 A. At the time -- 20 MR. FARRELL: I want to consult with 21 my client and see if that calls for any 22 law enforcement privilege. 23 (Recess taken.) 24 THE WITNESS: I am sorry. Will you 25 repeat it.</p>
<p style="text-align: right;">Page 359</p> <p>1 J. Esposito 2 Q. Would you estimate it at more than 3 five, less than five? 4 A. More than five. 5 Q. More than ten? 6 A. It's tough to guess. 7 Q. Well, about 50 times or somewhere in 8 the area of five to a dozen, some estimate of 9 the amount of time? 10 MR. FARRELL: Objection. If you 11 know. 12 A. More than five. That is for sure. 13 Q. These are one-on-one conversations, 14 correct? 15 A. Yes. 16 Q. How many times did the Intelligence 17 Division, Mr. Cohen or one of his subordinates 18 brief the Executive Committee about intelligence 19 that has been gathered with regard to the 20 Republican National Convention and what was 21 expected to be coming during -- 22 A. More than five. 23 Q. The same, if you give me an upper 24 amount? 25 A. No, I couldn't.</p>	<p style="text-align: right;">Page 361</p> <p>1 J. Esposito 2 MR. ROTHMAN: Could you read it 3 back. 4 (Record read.) 5 A. I don't recall the specific names. 6 Names were given to me. I don't recall them 7 now. 8 Q. How many times were you briefed 9 personally by Mr. Cohen on this subject? 10 MR. FARRELL: Objection. 11 A. I don't recall. 12 Q. Less than five? 13 MR. FARRELL: Objection. 14 A. I would say more than five, but 15 other than that I really couldn't give an 16 educated guess. 17 Q. How many times did Mr. Cohen brief 18 the Executive Committee on this subject of 19 intelligence related to the Republican National 20 Convention? 21 MR. FARRELL: Objection. 22 A. I don't recall. 23 Q. Again more than five, you would 24 estimate? 25 A. Yes.</p>

<p style="text-align: right;">Page 362</p> <p>1 J. Esposito 2 Q. In terms of number of weeks or 3 months before the Convention, when did these 4 intelligence briefings begin, either personally 5 to you or to the Executive Committee? 6 A. I don't recall. 7 Q. Can you say that they began in 2004 8 or earlier than that? 9 MR. FARRELL: Objection. 10 A. They began almost immediately after 11 it was determined that we were getting the 12 Convention. 13 Q. How frequently did they occur? 14 A. I don't recall. 15 Q. Did they increase in frequency as 16 the Convention approached? 17 A. Yes. 18 Q. What intelligence that you received 19 suggested that people were coming to shut down 20 venues relating to the Republican National 21 Convention? 22 A. Just that, Intelligence Division 23 would brief us as they were getting 24 information. 25 Q. Again, do you remember any specifics</p>	<p style="text-align: right;">Page 364</p> <p>1 J. Esposito 2 intelligence about people wanting to shut down 3 or prevent or obstruct the ingress or egress of 4 delegates into Broadway theaters? 5 A. Yes. 6 Q. Who gave you that information? 7 A. Someone from the Intelligence 8 Division. 9 Q. Do you remember who? 10 A. No. 11 Q. Do you remember where? 12 A. No. 13 Q. Do you remember any specifics about 14 what theaters or what was expected with regard 15 to that? 16 A. Just the theaters that the delegates 17 were to go to. I don't remember specifically 18 which ones. 19 Q. What were the main hotels where the 20 delegates were staying at? 21 A. I don't remember. 22 Q. Did you have any personal 23 interaction with any of the delegates during the 24 Republican National Convention? 25 A. Not that I recall.</p>
<p style="text-align: right;">Page 363</p> <p>1 J. Esposito 2 at all with regard to what venues people were 3 going to be trying to shut down, which people 4 were going to shut them down, when they were 5 going to try to shut them down and in what 6 manner they were going to try to shut them 7 down? 8 A. Blocking streets, blocking 9 entrances, events that the delegates were going 10 to go to, chaining themselves, sitting down. 11 Q. At what venues? 12 A. Just about every venue that the 13 information was. They would go to the venues 14 that the delegates were going to be at. It was 15 more or less generic. 16 Q. Do you remember any specific 17 intelligence about people going to shut down 18 delegate-related venues on August 29th in the 19 Times Square area? 20 A. What day of the week was that? 21 Q. It was a Sunday, the day of the 22 large demonstration by United for Peace and 23 Justice? 24 A. I am not sure. 25 Q. Do you remember any specific</p>	<p style="text-align: right;">Page 365</p> <p>1 J. Esposito 2 Q. What intelligence suggested that 3 violent criminals were coming New York to engage 4 in violent activity or to engage in civil 5 disobedience? 6 A. Information that was given to me 7 from the Intelligence Division. 8 Q. Again, do you remember any specifics 9 at all about which violent criminals, about what 10 violent acts were expected where and when they 11 were expected to occur? 12 A. I can't recall the names. 13 Q. About how many individuals were 14 individuals of concern in the run-up to the 15 Republican National Convention? 16 A. I don't remember. 17 Q. There were some people who were 18 designated as individuals of concern, correct? 19 MR. FARRELL: Objection. 20 A. Yes. 21 Q. About how many were designated as 22 individuals of concern? 23 A. I don't recall at all. 24 Q. Were any lists or photo displays 25 made depicting these individuals of concern?</p>

<p style="text-align: right;">Page 466</p> <p>1 J. Esposito 2 Chief Colegan, would work alongside by him and 3 be brought up to speed? 4 MR. FARRELL: Objection. 5 A. No. What I'm saying, you wouldn't 6 relieve Devlin and bring Colegan in. If you are 7 going to bring Colegan in, let him work with 8 Devlin until Devlin leaves. I don't think we 9 would have relieved Devlin if he was still 10 working. 11 Q. Why would you have wanted Colegan to 12 work with Devlin? 13 MR. FARRELL: Objection. 14 A. To get up to speed. 15 Q. Did you, at any time, have any 16 conversations with Inspector Morris about RNC 17 arrest planning prior to the RNC? 18 A. I forget when he came on board for 19 the RNC. 20 Q. Do you remember why Morris in 21 particular was chosen to work on this project? 22 A. Very well thought of. I believe he 23 is an attorney. I just think we saw things in 24 his background that we liked. 25 Q. Do you know if he ever worked with</p>	<p style="text-align: right;">Page 468</p> <p>1 J. Esposito 2 A. Intel would do a lot of it. 3 Operations would do a lot of it. We would just 4 get briefed on what happened day before. 5 Q. Who from intel would give those 6 briefings? 7 A. Usually Cohen. We would have 8 somebody there with him giving us the details of 9 what happened the day before. McManus, Chief 10 McManus who is the RNC coordinator, would be 11 there naturally. 12 Q. And the Operations Division, are 13 they within the Patrol Services Division? 14 A. They answer to the Chief of the 15 Department. 16 Q. Are they Patrol Services? 17 A. No, Chief of the Department's 18 office. 19 Q. What is their general duties? 20 A. They coordinate all of the citywide 21 plans, activities details. They are the central 22 depository for what is going on around the City. 23 Q. Sort of an overview of all of the 24 different police operations? 25 A. Yes, sir.</p>
<p style="text-align: right;">Page 467</p> <p>1 J. Esposito 2 the Legal Bureau? 3 A. I don't know. 4 Q. You said that RNC arrests would be 5 reported to the Command Center. What Command 6 Center were you referring to, sir? 7 A. Emergency Operations Center, the 8 EOC, police headquarters. We have a big 9 conference room. All of the agencies that were 10 working with the RNC were represented there, and 11 there is a sort of a central depository for all 12 activity. 13 Q. Did you spend a fair amount of time 14 within that Emergency Operations Center during 15 the Republican National Convention? 16 A. No. 17 Q. Where did you spend the bulk of your 18 time during the RNC period? Was it out on the 19 street? Was it at a command office? What were 20 you actually doing most of the time? How did 21 you organize your days? 22 A. We get briefed in the morning on 23 what happened the day before. We get daily 24 briefings. 25 Q. By whom?</p>	<p style="text-align: right;">Page 469</p> <p>1 J. Esposito 2 Q. The coordination between the -- 3 A. Bureaus, other City agencies, 4 outside City agencies. Anything going on in the 5 City would go through them. 6 Q. They would give you daily briefings 7 as well as to what occurred on the prior day? 8 A. They would be part of a briefing 9 process, yes. 10 Q. Would these briefings be given at 11 the same time or -- 12 A. Generally we try to get them down 13 early in the morning, 8, 9 o'clock I believe 14 they were. 15 Q. Was that in the Commissioner's 16 conference room? 17 A. Most of the time they were in the 18 Commissioner's conference room. 19 Q. How long would they take? 20 A. It varied. 21 Q. Were there any written documents 22 that were generated as a result of that? 23 A. At times there may -- intel would 24 have some documents at times. A lot of times it 25 would be Operations. Operations may generate a</p>

<p style="text-align: right;">Page 711</p> <p>1 J. Esposito 2 MR. FARRELL: Objection. 3 Q. What about the fact that you were 4 arresting people involved in demonstrations made 5 you adopt a no summons rule for people who 6 presumably were arrested in non-demonstration 7 related events at the same time elsewhere in the 8 city were eligible for summons? 9 MR. FARRELL: Objection. Can you 10 read that question back, please. 11 (The record was read.) 12 Q. What is it about the fact that 13 somebody's being arrested at a demonstration led 14 you to conclude that a no summons policy should 15 be issued for an RNC related arrest when at the 16 same time throughout the city people arrested for 17 a non-RNC related event would be issued a summons 18 if eligible? 19 MR. FARRELL: Objection. 20 A. If I heard it right, we gave out 21 C-Summons in other parts of the city for 22 non-RNC related -- 23 Q. Presumably, yes. 24 A. -- while at the same time at the RNC 25 related event we had a no C-Summons policy?</p>	<p style="text-align: right;">Page 713</p> <p>1 J. Esposito 2 MR. FARRELL: Objection. 3 A. Both, I believe. 4 Q. From whom did you receive that -- 5 you don't have to tell me specifically what it 6 was -- but from whom did you receive that 7 intelligence briefing? 8 A. The intelligence division. 9 Q. And that would be at the time and 10 maybe still is, headed by Commissioner Cohen? 11 A. That's correct. 12 Q. And all those factors that you 13 mentioned were factors that were identified in 14 this briefing which you relied upon and adopted a 15 no summons rule? 16 MR. FARRELL: Objection. 17 A. Yes. 18 Q. What changes in policing -- 19 withdrawn. Did the fact that this event, the 20 RNC, was designated a national special security 21 event -- and you know what that is, right? 22 A. Yes. 23 Q. Did that fact mandate that you 24 change your policing procedures in any way? 25 MR. FARRELL: Objection.</p>
<p style="text-align: right;">Page 712</p> <p>1 J. Esposito 2 Q. Right. 3 A. Just for all the reasons I 4 articulated, all the information we were getting 5 about the RNC. 6 Q. That information being what? 7 A. What I just said about the RNC -- 8 MR. FARRELL: Objection. Asked and 9 answered. 10 A. -- being -- well, it's a national 11 security incident, a special security event, and 12 that raised up our level of concern. The 13 information we got about people coming into the 14 city for the purpose of shutting the city down, 15 for the purpose of shutting the RNC down, for the 16 purpose of destroying property, attacking 17 businesses, the possibility of a terrorist 18 attack, the possibility of false identification, 19 the probability of false identification. 20 Q. Now, all these factors that you 21 mentioned, were they contained in some kind of 22 intelligence briefing that you received? 23 A. Yes. 24 Q. Was this in written form or was it 25 orally?</p>	<p style="text-align: right;">Page 714</p> <p>1 J. Esposito 2 A. No. 3 Q. With the intelligence you had with 4 respect to the intention of people to shut down 5 the city and shut down the RNC -- I believe those 6 were your words -- were there any specific 7 credible allegations of that or was that just a 8 general concern expressed by the intelligence 9 division? I'm not asking what the specific 10 concerns were, I'm just asking whether it was 11 specific or whether it was just a general concern 12 that that might happen? 13 MR. FARRELL: Objection. 14 A. I believe it was a concern based on 15 intelligence they had gathered. 16 Q. Specific intelligence? 17 MR. FARRELL: Objection. 18 A. I believe so. 19 Q. Did you review that intelligence or 20 was that a recommendation that was given to you, 21 this is like George Bush, were there weapons of 22 mass destruction -- no, that's off the record -- 23 A. That was a potential. 24 Q. Was that information, did you review 25 the specific intelligence of -- that indicated</p>

<p style="text-align: right;">Page 775</p> <p>1 J. Esposito 2 be they be eligible for a summons? 3 MR. FARRELL: Can you read that back 4 for me. 5 (The record was read.) 6 Q. Are you aware of any such policy in 7 the police department prior to the RNC? 8 MR. FARRELL: Objection. If you 9 understand it. 10 A. Online and a C-Summons only if the 11 incident commander okayed it? 12 Q. Right. 13 A. Online referring to what? 14 Q. You tell me. 15 MR. FARRELL: Objection. 16 A. Well, what's your understanding of 17 online? 18 Q. Well, let me ask you what your 19 understanding of online is? 20 A. Online to me is usually above DAT, 21 when you're being processed for a complaint 22 before a judge. 23 Q. Are you aware of any such policy, 24 given that definition of online, were you aware 25 of such policy prior to the RNC?</p>	<p style="text-align: right;">Page 777</p> <p>1 J. Esposito 2 MR. MOORE: I have nothing further. 3 Thank you, Chief Esposito. 4 MR. FARRELL: All right, it's 12:29. 5 Do you need a break? 6 (A recess was taken.) 7 EXAMINATION BY 8 MS. WOHLFORTH: 9 Q. Good afternoon. My name is Karen 10 Wohlforth. I represent Jody Concepcion, a 11 plaintiff in this action. I just have a few 12 questions for you today, and you'll excuse me if 13 I may repeat certain information because I wasn't 14 able to be at certain of your other depositions, 15 but it will be short. 16 I understand that you testified that 17 you met with Mr. Cohen, David Cohen, on a regular 18 basis? 19 A. Yes. 20 Q. When did those meetings start prior 21 to the convention? 22 A. Just about immediately when we were 23 awarded the convention. 24 Q. And did those meetings step up in 25 frequency as you came closer to the convention?</p>
<p style="text-align: right;">Page 776</p> <p>1 J. Esposito 2 MR. FARRELL: Objection. 3 A. I didn't think so. 4 Q. Assuming online includes both 5 arraignment before a judge and the issuance of a 6 DAT, are you aware of any policy that says for 7 anybody arrested at a demonstration for a 8 violation at a demonstration that they would be 9 processed online unless an incident commander 10 concluded that they should get a summons? 11 MR. FARRELL: Objection. 12 A. As I testified earlier, the incident 13 commander has the discretion to give a C-Summons. 14 Q. So is it my understanding then that 15 prior to the RNC that for people arrested at 16 demonstrations that the presumption would be that 17 they would be processed online, which could 18 include being given a DAT or going before a judge 19 for arraignment, and that the presumption would 20 be that that's how they would be processed, and 21 that only if the incident commander decided they 22 should get a summons that they would be eligible 23 for a consideration for a summons? 24 MR. FARRELL: Objection. 25 A. I'm not sure.</p>	<p style="text-align: right;">Page 778</p> <p>1 J. Esposito 2 A. Yes. 3 Q. How often did you meet with him in 4 the months prior to the convention? 5 A. I couldn't say. 6 Q. Once a week? 7 A. Yes, at least. 8 Q. And who else attended those 9 meetings? 10 A. At times the commissioner would be 11 there, at times it would just be me and Cohen. 12 Q. How was John McManus involved? 13 MR. FARRELL: Objection. 14 A. Jack was the coordinator for the 15 RNC, he was the point person for the RNC. 16 Q. Can you tell me what his duties 17 involved as the point person for the RNC? 18 MR. FARRELL: Objection. 19 A. Really organizing the whole event. 20 Q. Coordinating with this Committee on 21 Arrangements? 22 A. Coordinating with other city 23 agencies, federal agencies and the RNC people, 24 City Hall. 25 Q. Did he attend any of the Intel</p>

<p style="text-align: right;">Page 791</p> <p>1 J. Esposito 2 explosive device that was retrieved by anyone in 3 the NYPD as a result of the convention? 4 MR. FARRELL: Objection. 5 A. I would have been aware. Would I 6 remember every incident, no. When they arrested 7 the fellows or the people responsible for setting 8 something on fire on 34th Street, I'm not sure if 9 there was any explosive or accelerant retrieved. 10 Are you aware when they set the display on fire? 11 I'm not sure, they may have recovered some 12 flammable substance, I'm not sure though. 13 Q. But other than that particular 14 incident that involved a fire, do you have any 15 recollection of any explosive devices that were 16 actually voucherized as a result of any arrests? 17 A. I don't recall any. 18 Q. Do you have any recollection of any 19 guns or firearms of any sort that were actually 20 voucherized as a result of any arrest? 21 MR. FARRELL: Objection. 22 A. Not that I recall. 23 Q. Nonetheless, as a result of your 24 meetings with Intel, the information that you 25 received led you to expect that you would find --</p>	<p style="text-align: right;">Page 793</p> <p>1 J. Esposito 2 be done that might have involved -- that was 3 intended to involve guns or explosive devices? 4 MR. FARRELL: Objection. 5 A. Yes, we had information. Did I have 6 information about specific -- 7 Q. Specific information? 8 MR. FARRELL: Objection. 9 A. Definition of specific -- certain 10 people, named people, that were coming here who 11 had a history of that type of behavior using 12 explosives, yes, we had specific information. 13 Q. But nothing was found? 14 MR. FARRELL: Objection. 15 A. No, not to my recollection. You 16 asked me if there was specific information about 17 people, places or things who would be involved 18 with explosives or firearms? 19 Q. Correct. 20 A. Information we received from Intel 21 were about individuals who had an arrest history 22 of that type of behavior that were coming here 23 during the RNC, yes. 24 Q. Did you have any information that 25 any of those specific individuals were expected</p>
<p style="text-align: right;">Page 792</p> <p>1 J. Esposito 2 that you might find firearms or explosive devices 3 during the course of this convention; is that not 4 true? 5 MR. FARRELL: Objection. 6 A. We felt the potential was there. 7 Q. Was that potential as a result of 8 any specific Intel that was given to you by the 9 intelligence unit? 10 MR. FARRELL: Objection. 11 A. Yes. 12 Q. Was that intelligence that you 13 received with respect to any particular location? 14 MR. FARRELL: Objection. 15 A. I don't recall location being 16 mentioned. 17 Q. It was a general threat with respect 18 to any area in the city or was there any 19 specificity as to the information that you 20 received from Intel? 21 MR. FARRELL: Objection. 22 A. As far as the location? 23 Q. As far as any location, I don't need 24 to know the location, as far as any location or 25 any specific detail regarding what was going to</p>	<p style="text-align: right;">Page 794</p> <p>1 J. Esposito 2 to turn up on East 16th Street on August 31st? 3 A. We knew they were coming for the 4 Republican National Convention. We didn't know 5 exactly what location they were going to go to. 6 Q. Now, with respect to the issue of 7 the warnings, were your command people provided 8 with bullhorns for warnings? 9 A. I believe so. 10 Q. Were there specific instructions 11 that each commander had to receive a certain 12 number of bullhorns for any particular location 13 that they were dispatched to? 14 A. No. 15 Q. Was there any assurance that there 16 were bullhorns available for each commander for 17 each location that they were dispatched to? 18 MR. FARRELL: Objection. 19 A. There should have been. 20 Q. Do you know whether they were? 21 MR. FARRELL: Objection. 22 A. I'm not sure if every particular 23 commander had a bullhorn but one, I believe, was 24 available. 25 Q. Where would it have been available?</p>

<p style="text-align: right;">Page 795</p> <p>1 J. Esposito 2 A. That varies. It should be in 3 someone's vehicle, it could have been at the 4 command post. 5 Q. Did you give any specific 6 instructions with respect to any proposed 7 demonstrations that were taking place at Union 8 Square? 9 MR. FARRELL: Objection. 10 A. I don't think so. 11 Q. Are you aware of any specific 12 instructions that were given to any of the 13 commanders who were dispatched to Union Square on 14 August 31st? 15 MR. FARRELL: Objection. 16 A. Specific instructions? 17 Q. Yes. 18 A. No. 19 Q. Did you have any meetings with 20 Michael Tiffany at Intel? 21 A. I believe Mike was still in the 22 position of commanding officer of Intel at the 23 time. He left our agency at one point, I believe 24 it was after the RNC. So, yes, I would have had 25 meetings with him.</p>	<p style="text-align: right;">Page 797</p> <p>1 J. Esposito 2 expected violence or explosive devices and things 3 of that nature. Those explosive devices were not 4 retrieved as a result of these arrests during 5 this convention; is that correct? 6 MR. FARRELL: Objection. 7 A. Correct. 8 Q. Did you ever do any evaluation or 9 assessment as to the reliability of the 10 intelligence that you received? 11 A. The intelligence was fine. 12 Q. Well, it proved not to be correct; 13 isn't that true? 14 MR. FARRELL: Objection. 15 A. Not at all. 16 Q. You didn't find any explosive 17 devices; is that correct? 18 MR. FARRELL: Objection. 19 A. We didn't say explosive devices were 20 coming. There was potential for it. The 21 individuals who had a history of using explosive 22 devices were said to be coming to New York during 23 the RNC. I believe good policing prevented the 24 violence from reaching that level. 25 Q. Were any of these individuals that</p>
<p style="text-align: right;">Page 796</p> <p>1 J. Esposito 2 Q. He went to Washington, didn't he? 3 A. Yes. 4 Q. Did Michael Tiffany participate in 5 most of these meetings with Commissioner Cohen 6 that you had? 7 MR. FARRELL: Objection. 8 A. Some. 9 Q. Did you ever prepare any assessment 10 as to the discrepancy between the intelligence 11 that you received and what you actually found 12 during the course of these arrests during the 13 RNC? 14 MR. FARRELL: Objection. 15 A. I don't know what you're referring 16 to. 17 Q. Did you ever prepare any written 18 reports or critical assessments, did you ever 19 evaluate why the intelligence that you received 20 didn't pan out in terms of the arrests that 21 actually took place during that convention? 22 MR. FARRELL: Objection. He never 23 said that. 24 A. What do you mean by pan out? 25 Q. You received intelligence regarding</p>	<p style="text-align: right;">Page 798</p> <p>1 J. Esposito 2 you were warned about, to your knowledge, on East 3 16th Street or Union Square on August 31st 4 specifically? 5 A. I don't know. 6 Q. Is there anyone who would have 7 knowledge of that? 8 A. The intelligence division might have 9 knowledge of that. 10 Q. But anyone in your policing force -- 11 MR. FARRELL: Objection. 12 Q. -- who would actually be on the 13 ground at the site? 14 A. Intel is on the ground. 15 Q. Are you aware of any reports from 16 Intel on the ground, back to central command, 17 that any of these individuals that you were 18 looking for were actually at East 16th Street? 19 MR. FARRELL: Objection. 20 A. Some of the individuals of concern 21 were on the streets during the RNC. I believe 22 one was seen in the area of Union Square Park. I 23 guess that's close proximity to 16th Street, 24 would you consider that? 25 Q. On August 31st?</p>

<p style="text-align: right;">Page 799</p> <p>1 J. Esposito 2 A. I don't know what date. It may have 3 been the 31st -- no, I'm sorry, I don't know, I'm 4 not sure. 5 Q. Do you know if any of your 6 undercovers were part of the sweep on East 16th 7 Street? 8 MR. FARRELL: Objection. 9 Q. On August 31st? 10 MR. FARRELL: Objection. I assert 11 the law enforcement privilege to any 12 questions about the existence or 13 nonexistence of undercover police officers, 14 as I've done for the entire questioning of 15 witnesses. 16 MS. WOHLFORTH: I have no further 17 questions. 18 (A luncheon recess was taken, 1:15 19 P.M. - 2:55 P.M.)</p> <p>21 AFTERNOON SESSION</p> <p>23 EXAMINATION BY 24 MS. RITCHIE: 25 Q. Good afternoon. My name is Andrea</p>	<p style="text-align: right;">Page 801</p> <p>1 J. Esposito 2 A. Well, it really is the same policy 3 for both, we are not going to allow it. Now, an 4 investigation may be done by an outside agency, 5 not us, depending on who the complaint is made 6 to. Civilian Complaint Review Board may do it, 7 the DA's office may do it, it depends on the 8 allegation and how it's taken and the severity of 9 it. 10 Q. So you're saying that if the 11 complaint is made to the Civilian Complaint 12 Review Board, they would conduct the 13 investigation? 14 A. They get sent to that area. They 15 refer it back to us because it's criminal, they 16 may refer it to the DA's office. 17 Q. Might it also be investigated by the 18 Internal Affairs Bureau? 19 A. Sure. 20 Q. Can you tell me where that policy is 21 found, is it written down somewhere? 22 A. Regarding with prisoners or within 23 the agency? 24 Q. Well, let's start with within the 25 agency?</p>
<p style="text-align: right;">Page 800</p> <p>1 J. Esposito 2 Ritchie, I'm counsel for Plaintiff Caitlin Tikkun 3 in Civil Action 059901. I have some questions 4 for you primarily about NYPD policy and practice. 5 A. Okay. 6 Q. It's my understanding that you 7 testified earlier in this deposition that sexual 8 harassment by members of the New York City Police 9 Department would not be tolerated; is that 10 correct? 11 A. Correct. 12 Q. As chief of department, are you 13 aware of any specific NYPD policy concerning 14 sexual harassment? 15 MR. FARRELL: Objection to the 16 extent it's been asked and answered 17 previously. 18 A. We have a policy, and basically it's 19 not going to be tolerated and we will investigate 20 any allegations and take appropriate disciplinary 21 action if necessary. 22 Q. Are you talking about sexual 23 harassment between NYPD employees or does this 24 policy cover interactions between NYPD officers 25 and members of the public?</p>	<p style="text-align: right;">Page 802</p> <p>1 J. Esposito 2 A. Within the agency, the statements by 3 the Office of Equal Employment, they're the ones 4 who oversee this policy. And as far as with 5 regards to prisoners, it would be in the patrol 6 guide how to treat prisoners. 7 Q. Can you give me a precise reference 8 to a section of the patrol guide? 9 A. No, I don't have it. 10 Q. Do you know if there is a section 11 that deals specifically with sexual harassment? 12 MR. FARRELL: Objection. 13 A. I'm not sure if it mentions that per 14 se. 15 Q. So what section are you thinking of? 16 A. With regards to how to treat 17 prisoners. 18 Q. It's your understanding of the 19 section that deals with how to treat prisoners 20 specifically refers to sexual harassment? 21 MR. FARRELL: Objection. 22 A. I don't know if it does. 23 Q. What about members of the public who 24 are not prisoners? 25 MR. FARRELL: Objection.</p>

<p>1 J. Esposito</p> <p>2 A. No.</p> <p>3 Q. Do you recall the issue coming up in connection with the 6th Precinct?</p> <p>4 MR. FARRELL: Objection.</p> <p>5 A. Not specifically, no, I don't.</p> <p>6 Q. You referred earlier today on having 7 received specific information from Intel 8 concerning issues relating to identification 9 documents?</p> <p>10 A. Yes.</p> <p>11 Q. And the concern was that people be 12 carrying false identification documents; is that 13 correct?</p> <p>14 A. Yes.</p> <p>15 Q. Did any of that information suggest 16 that people would be carrying identification 17 documents that reflected a gender that was 18 different than -- that was of a different gender 19 than you would expect?</p> <p>20 MR. FARRELL: Objection.</p> <p>21 A. I don't recall that being talked 22 about.</p> <p>23 MS. RITCHIE: I have nothing 24 further. Thank you.</p>	<p>Page 823</p> <p>1 J. Esposito</p> <p>2</p> <p>3 I, the witness herein, having read the foregoing 4 testimony, do hereby certify it to be a true and 5 correct transcript, subject to the corrections, 6 if any, shown on the attached page.</p> <p>7</p> <p>8</p> <p>9</p> <hr/> <p>10 JOSEPH ESPOSITO</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15 Subscribed and sworn to 16 before me this _____ day 17 of _____ 2006.</p> <p>18</p> <p>19</p> <p>20</p> <hr/> <p>21 NOTARY PUBLIC</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
	<p>Page 824</p> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

EXHIBIT R



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February 1, 2008

BY FAX

The Honorable Richard J. Sullivan
United States District Judge
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, New York 10007-1312

Re: **Consolidated RNC Cases**

Dear Judge Sullivan:

On January 23, 2008, Magistrate Judge Francis issued an opinion and order granting in part and denying in part the motions of plaintiffs in approximately 37 RNC actions to amend their complaints to add various claims and defendants (the "Order"). As Your Honor may recall, plaintiffs' motions to amend were filed nearly three years after the incidents giving rise to these claims, on the eve of expiry of the federal statute of limitations and after nearly three years of consolidated discovery in the RNC cases.

In the Order, the Magistrate Judge has permitted plaintiffs to add as a defendant Deputy Commissioner of Intelligence David Cohen although we believe that plaintiffs have not properly pled any cause of action against him. Due to the importance of this issue, and other potential grounds for appeal that we are reviewing, defendants will appeal the Order for Your Honor's review.

In light of the burdens under which defendants are laboring in these numerous actions, which includes ongoing party and nonparty discovery as well as heavy briefing schedules before both Your Honor and Magistrate Francis on various issues, the parties have conferred on a briefing schedule. Plaintiffs' counsel, Jeffrey Rothman, has consented to the schedule proposed below; in several conversations, the Beldock firm, through Ms. Norins, has expressed no objection but has not yet provided a final answer; Ms. Weber consents on the

condition that she be permitted an extra week to submit her opposition to the appeal; other plaintiffs' counsel who have moved to amend have not responded to our email inquiries.

Based on these discussions, the parties propose the following schedule: defendants appeal shall be due on February 25, 2008; plaintiffs' opposition shall be due on March 17, 2008; and defendants' reply shall be due on March 31, 2008. The parties respectfully request that the Court "so order" it.

Respectfully submitted,



James Mirro

cc: RNC Distribution List (by email)

EXHIBIT S

Clare Norins

From: Clare Norins
Sent: Sunday, February 03, 2008 3:42 PM
To: Sundaran, Raju; 'Mirro, James'; 'Farrell, Peter'
Cc: Jonathan C. Moore; Rachel Kleinman
Subject: Briefing on Rule 72 re Amending Complaints

Hi Jim & Raju:

Counsel in MacNamara consents to the proposed briefing schedule with the understanding that defendants will not be appealing the addition of the as-applied constitutional challenges to the Parading Without a Permit and Disorderly Conduct statutes.

Thanks,
Clare

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